

Effective 5/3/2023

Chapter 41a
Cannabis Production Establishments and Pharmacies

Part 1
General Provisions

4-41a-101 Title.

This chapter is known as "Cannabis Production Establishments."

Renumbered and Amended by Chapter 1, 2018 Special Session 3

4-41a-102 Definitions.

As used in this chapter:

- (1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:
 - (a) pesticides;
 - (b) heavy metals;
 - (c) solvents;
 - (d) microbial life;
 - (e) artificially derived cannabinoid;
 - (f) toxins; or
 - (g) foreign matter.
- (2) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section 26B-1-435.
- (3)
 - (a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the cannabis plant.
 - (b) "Artificially derived cannabinoid" does not include:
 - (i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process; or
 - (ii) a cannabinoid that is produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.
- (4) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26B-1-420.
- (5) "Cannabis" means the same as that term is defined in Section 26B-4-201.
- (6) "Cannabis concentrate" means:
 - (a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; and
 - (b) any amount of a natural cannabinoid or artificially derived cannabinoid in an artificially derived cannabinoid's purified state.
- (7) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.
- (8) "Cannabis cultivation facility" means a person that:
 - (a) possesses cannabis;
 - (b) grows or intends to grow cannabis; and

- (c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.
- (9) "Cannabis cultivation facility agent" means an individual who:
 - holds a valid cannabis production establishment agent registration card with a cannabis cultivation facility designation.
- (10) "Cannabis derivative product" means a product made using cannabis concentrate.
- (11) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.
- (12) "Cannabis processing facility" means a person that:
 - (a) acquires or intends to acquire cannabis from a cannabis production establishment;
 - (b) possesses cannabis with the intent to manufacture a cannabis product;
 - (c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and
 - (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.
- (13) "Cannabis processing facility agent" means an individual who:
 - holds a valid cannabis production establishment agent registration card with a cannabis processing facility designation.
- (14) "Cannabis product" means the same as that term is defined in Section 26B-4-201.
- (15) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.
- (16) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.
- (17) "Cannabis production establishment agent registration card" means a registration card that the department issues that:
 - (a) authorizes an individual to act as a cannabis production establishment agent; and
 - (b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.
- (18) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.
- (19) "Cultivation space" means, quantified in square feet, the horizontal area in which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.
- (20) "Delivery address" means:
 - (a) for a medical cannabis cardholder who is not a facility, the medical cannabis cardholder's home address; or
 - (b) for a medical cannabis cardholder that is a facility, the facility's address.
- (21) "Department" means the Department of Agriculture and Food.
- (22) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.
- (23) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a delivery address to fulfill electronic orders that the state central patient portal facilitates.
- (24)
 - (a) "Independent cannabis testing laboratory" means a person that:

- (i) conducts a chemical or other analysis of cannabis or a cannabis product; or
- (ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.
- (b) "Independent cannabis testing laboratory" includes a laboratory that the department or a research university operates in accordance with Subsection 4-41a-201(14).
- (25) "Independent cannabis testing laboratory agent" means an individual who:
 - holds a valid cannabis production establishment agent registration card with an independent cannabis testing laboratory designation.
- (26) "Inventory control system" means a system described in Section 4-41a-103.
- (27) "Licensing board" or "board" means the Cannabis Production Establishment Licensing Advisory Board created in Section 4-41a-201.1.
- (28) "Medical cannabis" means the same as that term is defined in Section 26B-4-201.
- (29) "Medical cannabis card" means the same as that term is defined in Section 26B-4-201.
- (30) "Medical cannabis courier" means a courier that:
 - (a) the department licenses in accordance with Section 4-41a-1201; and
 - (b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.
- (31) "Medical cannabis courier agent" means an individual who:
 - (a) is an employee of a medical cannabis courier; and
 - (b) who holds a valid medical cannabis courier agent registration card.
- (32) "Medical cannabis pharmacy" means the same as that term is defined in Section 26B-4-201.
- (33) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26B-4-201.
- (34) "Medical cannabis research license" means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.
- (35) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.
- (36) "Medical cannabis shipment" means a shipment of medical cannabis or a medical cannabis product that a home delivery medical cannabis pharmacy or a medical cannabis courier delivers to a delivery address to fulfill an electronic medical cannabis order that the state central patient portal facilitates.
- (37) "Medical cannabis treatment" means the same as that term is defined in Section 26B-4-201.
- (38) "Medicinal dosage form" means the same as that term is defined in Section 26B-4-201.
- (39) "Pharmacy medical provider" means the same as that term is defined in Section 26B-4-201.
- (40) "Qualified medical provider" means the same as that term is defined in Section 26B-4-201.
- (41) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.
- (42) "Recommending medical provider" means the same as that term is defined in Section 26B-4-201.
- (43) "Research university" means the same as that term is defined in Section 53B-7-702 and a private, nonprofit college or university in the state that:
 - (a) is accredited by the Northwest Commission on Colleges and Universities;
 - (b) grants doctoral degrees; and
 - (c) has a laboratory containing or a program researching a schedule I controlled substance described in Section 58-37-4.
- (44) "State electronic verification system" means the system described in Section 26B-4-202.
- (45) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in Section 4-41-102.

(46) "THC analog" means the same as that term is defined in Section 4-41-102.

(47) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.

(48) "Total tetrahydrocannabinol" or "total THC" means the same as that term is defined in Section 4-41-102.

Amended by Chapter 273, 2023 General Session

Amended by Chapter 313, 2023 General Session

Amended by Chapter 327, 2023 General Session

Effective 7/1/2023

4-41a-102.1 Temporary governance over medical cannabis pharmacies.

(1) As used in this section:

(a) "Pharmacy provisions" means the provisions contained in the following parts:

(i) Part 10, Medical Cannabis Pharmacy License;

(ii) Part 11, Medical Cannabis Pharmacy Operation and Agents; and

(iii) Part 12, Medical Cannabis Home Delivery and Couriers.

(b) "Transition period" means the period of time beginning on July 1, 2023, and ending on January 1, 2024.

(2) During the transition period:

(a) the department may request:

(i) the Department of Health and Human Services to carry out the duties described in the pharmacy provisions; and

(ii) technical assistance from the Department of Health and Human Services related to carrying out the duties described in the pharmacy provisions;

(b) the department may terminate or limit the scope of the Department of Health and Human Services' power to carry out duties described in the pharmacy provisions; and

(c) if the department requests the Department of Health and Human Services to carry out duties described in the pharmacy provisions, the department may make personnel available to the Department of Health and Human Services for carrying out the duties.

(3) Upon the request of the department under this section, the Department of Health and Human Services has the authority to carry out any duties:

(a) within the scope of the request; and

(b) if related to the pharmacy provisions.

(4) Notwithstanding any other provision of law, the Department of Health and Human Services may use funds from the Qualified Patient Enterprise Fund, created in Section 26B-1-310, to cover any costs of Department of Health and Human Services personnel related to carrying out duties requested by the department under this section.

Enacted by Chapter 273, 2023 General Session

4-41a-103 Inventory control system.

(1) Each cannabis production establishment and each medical cannabis pharmacy shall maintain an inventory control system that meets the requirements of this section.

(2) A cannabis production establishment and a medical cannabis pharmacy shall ensure that the inventory control system maintained by the establishment or pharmacy:

(a) tracks cannabis using a unique identifier, in real time, from the point that a cannabis plant is eight inches tall and has a root ball until the cannabis is disposed of or sold, in the form of unprocessed cannabis or a cannabis product, to an individual with a medical cannabis card;

- (b) maintains in real time a record of the amount of cannabis and cannabis products in the possession of the establishment or pharmacy;
 - (c) includes a video recording system that:
 - (i) tracks all handling and processing of cannabis or a cannabis product in the establishment or pharmacy;
 - (ii) is tamper proof; and
 - (iii) stores a video record for at least 45 days; and
 - (d) preserves compatibility with the state electronic verification system described in Section 26B-4-202.
- (3) A cannabis production establishment and a medical cannabis pharmacy shall allow the following to access the cannabis production establishment's or the medical cannabis pharmacy's inventory control system at any time:
- (a) the department;
 - (b) the Department of Health and Human Services; and
 - (c) a financial institution that the Division of Finance validates, in accordance with Subsection (6).
- (4) The department may establish compatibility standards for an inventory control system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (5)
- (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for aggregate or batch records regarding the planting and propagation of cannabis before being tracked in an inventory control system described in this section.
 - (b) The department shall ensure that the rules described in Subsection (5)(a) address record-keeping for the amount of planted seed, number of cuttings taken, date and time of cutting and planting, number of plants established, and number of plants culled or dead.
- (6)
- (a) The Division of Finance shall, in consultation with the state treasurer:
 - (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to:
 - (A) establish a process for validating financial institutions for access to an inventory control system in accordance with Subsections (3)(c) and (6)(b); and
 - (B) establish qualifications for the validation described in Subsection (6)(a)(i)(A);
 - (ii) review applications the Division of Finance receives in accordance with the process established under Subsection (6)(a)(i);
 - (iii) validate a financial institution that meets the qualifications described in Subsection (6)(a)(i); and
 - (iv) provide a list of validated financial institutions to the department and the Department of Health and Human Services.
 - (b) A financial institution that the Division of Finance validates under Subsection (6)(a):
 - (i) may only access an inventory control system for the purpose of reconciling transactions and other financial activity of cannabis production establishments, medical cannabis pharmacies, and medical cannabis couriers that use financial services that the financial institution provides;
 - (ii) may only access information related to financial transactions; and
 - (iii) may not access any identifying patient information.

Amended by Chapter 327, 2023 General Session

4-41a-104 Qualified Production Enterprise Fund -- Creation -- Revenue neutrality.

- (1) There is created an enterprise fund known as the "Qualified Production Enterprise Fund."
- (2) The fund created in this section is funded from:
 - (a) money the department deposits into the fund under this chapter;
 - (b) appropriations the Legislature makes to the fund; and
 - (c) the interest described in Subsection (3).
- (3) Interest earned on the Qualified Production Enterprise Fund shall be deposited into the fund.
- (4) The department may only use money in the fund to fund the department's implementation of this chapter.
- (5) The department shall set fees authorized under this chapter in amounts that the department anticipates are necessary, in total, to cover the department's cost to implement this chapter.

Amended by Chapter 307, 2023 General Session, (Coordination Clause)

Enacted by Chapter 1, 2018 Special Session 3

Superseded 7/1/2023

4-41a-105 Agreement with a tribe.

- (1) As used in this section, "tribe" means a federally recognized Indian tribe or Indian band.
- (2)
 - (a) In accordance with this section, the governor may enter into an agreement with a tribe to allow for the operation of a cannabis production establishment on tribal land located within the state.
 - (b) An agreement described in Subsection (2)(a) may not exempt any person from the requirements of this chapter.
 - (c) The governor shall ensure that an agreement described in Subsection (2)(a):
 - (i) is in writing;
 - (ii) is signed by:
 - (A) the governor; and
 - (B) the governing body of the tribe that the tribe designates and has the authority to bind the tribe to the terms of the agreement;
 - (iii) states the effective date of the agreement;
 - (iv) provides that the governor shall renegotiate the agreement if the agreement is or becomes inconsistent with a state statute; and
 - (v) includes any accommodation that the tribe makes:
 - (A) to which the tribe agrees; and
 - (B) that is reasonably related to the agreement.
 - (d) Before executing an agreement under this Subsection (2), the governor shall consult with the department.
 - (e) At least 30 days before the execution of an agreement described in this Subsection (2), the governor or the governor's designee shall provide a copy of the agreement in the form in which the agreement will be executed to:
 - (i) the chairs of the Native American Legislative Liaison Committee; and
 - (ii) the Office of Legislative Research and General Counsel.

Enacted by Chapter 1, 2018 Special Session 3

Effective 7/1/2023

4-41a-105 Agreement with a tribe.

- (1) As used in this section, "tribe" means a federally recognized Indian tribe or Indian band.

- (2)
- (a) In accordance with this section, the governor may enter into an agreement with a tribe to allow for the operation of a cannabis production establishment or a medical cannabis pharmacy on tribal land located within the state.
 - (b) An agreement described in Subsection (2)(a) may not exempt any person from the requirements of this chapter.
 - (c) The governor shall ensure that an agreement described in Subsection (2)(a):
 - (i) is in writing;
 - (ii) is signed by:
 - (A) the governor; and
 - (B) the governing body of the tribe that the tribe designates and has the authority to bind the tribe to the terms of the agreement;
 - (iii) states the effective date of the agreement;
 - (iv) provides that the governor shall renegotiate the agreement if the agreement is or becomes inconsistent with a state statute; and
 - (v) includes any accommodation that the tribe makes:
 - (A) to which the tribe agrees; and
 - (B) that is reasonably related to the agreement.
 - (d) Before executing an agreement under this Subsection (2), the governor shall consult with the department.
 - (e) At least 30 days before the execution of an agreement described in this Subsection (2), the governor or the governor's designee shall provide a copy of the agreement in the form in which the agreement will be executed to:
 - (i) the chairs of the Native American Legislative Liaison Committee; and
 - (ii) the Office of Legislative Research and General Counsel.

Amended by Chapter 273, 2023 General Session

4-41a-106 Severability clause.

- (1) If a final decision of a court of competent jurisdiction holds invalid any provision of this title or Laws of Utah 2018, Third Special Session, Chapter 1 or the application of any provision of this title or Laws of Utah 2018, Third Special Session, Chapter 1 to any person or circumstance, the remaining provisions of this title and Laws of Utah 2018, Third Special Session, Chapter 1 remain effective without the invalidated provision or application.
- (2) The provisions of this title and Laws of Utah 2018, Third Special Session, Chapter 1 are severable.

Enacted by Chapter 1, 2018 Special Session 3

4-41a-107 Notice to prospective and current public employees.

- (1)
 - (a) A state employer or a political subdivision employer shall take the action described in Subsection (1)(b) before:
 - (i) giving to a current employee an assignment or duty that arises from or directly relates to an obligation under this chapter; or
 - (ii) hiring a prospective employee whose assignments or duties would include an assignment or duty that arises from or directly relates to an obligation under this chapter.

- (b) The employer described in Subsection (1)(a) shall give the employee or prospective employee described in Subsection (1)(a) a written notice that notifies the employee or prospective employee:
 - (i) that the employee's or prospective employee's job duties may require the employee or prospective employee to engage in conduct which is in violation of the criminal laws of the United States; and
 - (ii) that in accepting a job or undertaking a duty described in Subsection (1)(a), although the employee or prospective employee is entitled to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to carry out an assignment or duty that may be a violation of the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.
- (2) The Division of Human Resource Management shall create, revise, and publish the form of the notice described in Subsection (1).
- (3) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice described in Subsection (1) may not:
 - (a) claim in good faith that the employee's actions violate or potentially violate the laws of the United States with respect to the manufacture, sale, or distribution of cannabis; or
 - (b) refuse to carry out a directive that the employee reasonably believes violates the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.
- (4) An employer of an employee who has signed the notice described in Subsection (1) may not take retaliatory action as defined in Section 67-19a-101 against a current employee who refuses to sign the notice described in Subsection (1).

Amended by Chapter 344, 2021 General Session

Effective 7/1/2023

4-41a-108 Payment provider for electronic medical cannabis transactions.

- (1) A cannabis production establishment, a medical cannabis pharmacy, or a prospective home delivery medical cannabis pharmacy seeking to use a payment provider shall submit to the Division of Finance and the state treasurer information regarding the payment provider the prospective licensee will use to conduct financial transactions related to medical cannabis, including:
 - (a) the name and contact information of the payment provider;
 - (b) the nature of the relationship between the establishment, pharmacy, or prospective pharmacy and the payment provider; and
 - (c) for a prospective home delivery medical cannabis pharmacy, the processes the prospective licensee and the payment provider have in place to safely and reliably conduct financial transactions for medical cannabis shipments.
- (2) The Division of Finance shall, in consultation with the state treasurer:
 - (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish standards for identifying payment providers that demonstrate the functional and technical ability to safely conduct financial transactions related to medical cannabis, including medical cannabis shipments;
 - (b) review submissions the Division of Finance and the state treasurer receive under Subsection (1);
 - (c) approve a payment provider that meets the standards described in Subsection (2)(a); and
 - (d) establish a list of approved payment providers.

- (3) Any licensed cannabis production establishment, licensed medical cannabis pharmacy, or medical cannabis courier may use a payment provider that the Division of Finance approves, in consultation with the state treasurer, to conduct transactions related to the establishment's, pharmacy's, or courier's respective medical cannabis business.
- (4) If Congress passes legislation that allows a cannabis-related business to facilitate payments through or deposit funds in a financial institution, a cannabis production establishment or a medical cannabis pharmacy may facilitate payments through or deposit funds in a financial institution in addition to or instead of a payment provider that the Division of Finance approves, in consultation with the state treasurer, under this section.

Renumbered and Amended by Chapter 273, 2023 General Session
Amended by Chapter 307, 2023 General Session, (Coordination Clause)
Renumbered and Amended by Chapter 307, 2023 General Session

Effective 7/1/2023

4-41a-109 Advertising.

- (1) Except as provided in this chapter, a person may not advertise regarding the recommendation, sale, dispensing, or transportation of medical cannabis, including:
 - (a) a promotional discount or incentive;
 - (b) a particular medical cannabis product, medical cannabis device, medical cannabis brand, or medicinal dosage form; or
 - (c) an assurance of a medical outcome related to a medical cannabis treatment.
- (2) Notwithstanding Subsection (1):
 - (a) a nonprofit organization that offers financial assistance for medical cannabis treatment to low-income patients may advertise the organization's assistance if the advertisement does not relate to a specific medical cannabis pharmacy or a specific medical cannabis product; and
 - (b) a medical cannabis pharmacy may provide information regarding subsidies for the cost of medical cannabis treatment to patients who affirmatively accept receipt of the subsidy information.
- (3) To ensure that the name and logo of a licensee under this chapter have a medical rather than a recreational disposition, the name and logo of the licensee:
 - (a) may include terms and images associated with:
 - (i) a medical disposition, including "medical," "medicinal," "medicine," "pharmacy," "apothecary," "wellness," "therapeutic," "health," "care," "cannabis," "clinic," "compassionate," "relief," "treatment," and "patient;" or
 - (ii) the plant form of cannabis, including "leaf," "flower," and "bloom;" and
 - (b) may not include:
 - (i) any term, statement, design representation, picture, or illustration that is associated with a recreational disposition or that appeals to children;
 - (ii) an emphasis on a psychoactive ingredient;
 - (iii) a specific cannabis strain; or
 - (iv) terms related to recreational marijuana, including "weed," "pot," "reefer," "grass," "hash," "ganga," "Mary Jane," "high," "buzz," "haze," "stoned," "joint," "bud," "smoke," "euphoria," "dank," "doobie," "kush," "frost," "cookies," "rec," "bake," "blunt," "combust," "bong," "budtender," "dab," "blaze," "toke," or "420."
- (4) The department shall define standards for advertising authorized under this chapter, including names and logos in accordance with Subsection (3), to ensure a medical rather than recreational disposition.

Renumbered and Amended by Chapter 273, 2023 General Session
Renumbered and Amended by Chapter 307, 2023 General Session
Amended by Chapter 307, 2023 General Session, (Coordination Clause)
Amended by Chapter 317, 2023 General Session

4-41a-110 Department coordination with the advisory board.

The department shall:

- (1) provide draft rules made under this chapter to the advisory board for the advisory board's review;
- (2) consult with the advisory board before issuing an additional:
 - (a) cultivation facility license under Section 4-41a-205; or
 - (b) pharmacy license under Section 4-41a-1005;
- (3) consult with the advisory board regarding fees set by the department that pertain to the medical cannabis program; and
- (4) when appropriate, consult with the advisory board regarding issues that arise in the medical cannabis program.

Enacted by Chapter 273, 2023 General Session

Part 2
Cannabis Production Establishment

Superseded 7/1/2023

4-41a-201 Cannabis production establishment -- License.

- (1) Except as provided in Subsection (14), a person may not operate a cannabis production establishment without a license that the department issues under this chapter.
- (2)
 - (a)
 - (i) Subject to Subsections (6), (7), (8), and (13) and to Section 4-41a-205, for a licensing process that the department initiates after March 17, 2021, the department, through the licensing board, shall issue licenses in accordance with Section 4-41a-201.1.
 - (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to specify a transparent and efficient process to:
 - (A) solicit applications for a license under this section;
 - (B) allow for comments and questions in the development of applications;
 - (C) timely and objectively evaluate applications;
 - (D) hold public hearings that the department deems appropriate; and
 - (E) select applicants to receive a license.
 - (iii) The department may not issue a license to operate a cannabis production establishment to an applicant who is not eligible for a license under this section.
 - (b) An applicant is eligible for a license under this section if the applicant submits to the licensing board:
 - (i) subject to Subsection (2)(c), a proposed name and address or, for a cannabis cultivation facility, addresses of no more than two facility locations, located in a zone described in

- Subsection 4-41a-406(2)(a) or (b), where the applicant will operate the cannabis production establishment;
- (ii) the name and address of any individual who has:
 - (A) for a publicly traded company, a financial or voting interest of 2% or greater in the proposed cannabis production establishment;
 - (B) for a privately held company, a financial or voting interest in the proposed cannabis production establishment; or
 - (C) the power to direct or cause the management or control of a proposed cannabis production establishment;
 - (iii) an operating plan that:
 - (A) complies with Section 4-41a-204;
 - (B) includes operating procedures that comply with this chapter and any law the municipality or county in which the person is located adopts that is consistent with Section 4-41a-406; and
 - (C) the department or licensing board approves;
 - (iv) a statement that the applicant will obtain and maintain a liquid cash account with a financial institution or a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least:
 - (A) \$100,000 for each cannabis cultivation facility for which the applicant applies; or
 - (B) \$50,000 for each cannabis processing facility or independent cannabis testing laboratory for which the applicant applies;
 - (v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and
 - (vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.
- (c)
- (i) A person may not locate a cannabis production establishment:
 - (A) within 1,000 feet of a community location; or
 - (B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.
 - (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.
 - (iii) The licensing board may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the licensing board determines that it is not reasonably feasible for the applicant to site the proposed cannabis production establishment without the waiver.
 - (iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).
- (3) If the licensing board approves an application for a license under this section and Section 4-41a-201.1:
- (a) the applicant shall pay the department:
 - (i) an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; or

- (ii) a fee for a 120-day limited license to operate as a cannabis processing facility described in Subsection (3)(b) that is equal to 33% of the initial license fee described in Subsection (3)(a)(i); and
 - (b) the department shall notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).
- (4)
- (a) Except as provided in Subsection (4)(b), a cannabis production establishment shall obtain a separate license for each type of cannabis production establishment and each location of a cannabis production establishment.
 - (b) The licensing board may issue a cannabis cultivation facility license and a cannabis processing facility license to a person to operate at the same physical location or at separate physical locations.
- (5) If the licensing board receives more than one application for a cannabis production establishment within the same city or town, the licensing board shall consult with the local land use authority before approving any of the applications pertaining to that city or town.
- (6) The licensing board may not issue a license to operate an independent cannabis testing laboratory to a person who:
- (a) holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility;
 - (b) has an owner, officer, director, or employee whose family member holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility; or
 - (c) proposes to operate the independent cannabis testing laboratory at the same physical location as a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility.
- (7) The licensing board may not issue a license to operate a cannabis production establishment to an applicant if any individual described in Subsection (2)(b)(ii):
- (a) has been convicted under state or federal law of:
 - (i) a felony; or
 - (ii) after December 3, 2018, a misdemeanor for drug distribution;
 - (b) is younger than 21 years old; or
 - (c) after September 23, 2019 until January 1, 2023, is actively serving as a legislator.
- (8)
- (a) If an applicant for a cannabis production establishment license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the licensing board may not give preference to the applicant based on the applicant's status as a holder of the license.
 - (b) If an applicant for a license to operate a cannabis cultivation facility under this section holds a license to operate a medical cannabis pharmacy under Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, the licensing board:
 - (i) shall consult with the Department of Health and Human Services regarding the applicant; and
 - (ii) may give consideration to the applicant based on the applicant's status as a holder of a medical cannabis pharmacy license if:
 - (A) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and
 - (B) the licensing board finds multiple other factors, in addition to the existing license, that support granting the new license.
- (9) The licensing board may revoke a license under this part:

- (a) if the cannabis production establishment does not begin cannabis production operations within one year after the day on which the licensing board issues the initial license;
 - (b) after the third of the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;
 - (c) if any individual described in Subsection (2)(b) is convicted, while the license is active, under state or federal law of:
 - (i) a felony; or
 - (ii) after December 3, 2018, a misdemeanor for drug distribution;
 - (d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action;
 - (e) if the cannabis production establishment demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter;
 - (f) if, after a change of ownership described in Subsection (15)(b), the board determines that the cannabis production establishment no longer meets the minimum standards for licensure and operation of the cannabis production establishment described in this chapter; or
 - (g) for an independent cannabis testing laboratory, if the independent cannabis testing laboratory fails to substantially meet the performance standards described in Subsection (14)(b).
- (10)
- (a) A person who receives a cannabis production establishment license under this chapter, if the municipality or county where the licensed cannabis production establishment will be located requires a local land use permit, shall submit to the licensing board a copy of the licensee's approved application for the land use permit within 120 days after the day on which the licensing board issues the license.
 - (b) If a licensee fails to submit to the licensing board a copy of the licensee's approved land use permit application in accordance with Subsection (10)(a), the licensing board may revoke the licensee's license.
- (11) The department shall deposit the proceeds of a fee that the department imposes under this section into the Qualified Production Enterprise Fund.
- (12) The department shall begin accepting applications under this part on or before January 1, 2020.
- (13)
- (a) The department's authority, and consequently the licensing board's authority, to issue a license under this section is plenary and is not subject to review.
 - (b) Notwithstanding Subsection (2)(a)(ii)(A), the decision of the department to award a license to an applicant is not subject to:
 - (i) Title 63G, Chapter 6a, Part 16, Protests; or
 - (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.
- (14)
- (a) Notwithstanding this section, the department:
 - (i) may operate or partner with a research university to operate an independent cannabis testing laboratory;
 - (ii) if the department operates or partners with a research university to operate an independent cannabis testing laboratory, may not cease operating or partnering with a research university to operate the independent cannabis testing laboratory unless:

- (A) the department issues at least two licenses to independent cannabis testing laboratories; and
- (B) the department has ensured that the licensed independent cannabis testing laboratories have sufficient capacity to provide the testing necessary to support the state's medical cannabis market; and
- (iii) after ceasing department or research university operations under Subsection (14)(a)(ii) shall resume independent cannabis testing laboratory operations at any time if:
 - (A) fewer than two licensed independent cannabis testing laboratories are operating; or
 - (B) the licensed independent cannabis testing laboratories become, in the department's determination, unable to fully meet the market demand for testing.
- (b)
 - (i) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish performance standards for the operation of an independent cannabis testing laboratory, including deadlines for testing completion.
 - (ii) A license that the department issues to an independent cannabis testing laboratory is contingent upon substantial satisfaction of the performance standards described in Subsection (14)(b)(i), as determined by the board.
- (15)
 - (a) A cannabis production establishment license is not transferrable or assignable.
 - (b) If the ownership of a cannabis production establishment changes by 50% or more:
 - (i) the cannabis production establishment shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c);
 - (ii) within 30 days of the submission of the application, the board shall:
 - (A) conduct the application review described in Section 4-41a-201.1; and
 - (B) award a license to the cannabis production establishment for the remainder of the term of the cannabis production establishment's license before the ownership change if the cannabis production establishment meets the minimum standards for licensure and operation of the cannabis production establishment described in this chapter; and
 - (iii) if the board approves the license application, notwithstanding Subsection (3), the cannabis production establishment shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

Amended by Chapter 313, 2023 General Session
Amended by Chapter 327, 2023 General Session

Effective 7/1/2023

4-41a-201 Cannabis production establishment -- License.

- (1) Except as provided in Subsection (14), a person may not operate a cannabis production establishment without a license that the department issues under this chapter.
- (2)
 - (a)
 - (i) Subject to Subsections (6), (7), (8), and (13) and to Section 4-41a-205, for a licensing process that the department initiates after March 17, 2021, the department, through the licensing board, shall issue licenses in accordance with Section 4-41a-201.1.
 - (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to specify a transparent and efficient process to:
 - (A) solicit applications for a license under this section;

- (B) allow for comments and questions in the development of applications;
 - (C) timely and objectively evaluate applications;
 - (D) hold public hearings that the department deems appropriate; and
 - (E) select applicants to receive a license.
- (iii) The department may not issue a license to operate a cannabis production establishment to an applicant who is not eligible for a license under this section.
- (b) An applicant is eligible for a license under this section if the applicant submits to the licensing board:
- (i) subject to Subsection (2)(c), a proposed name and address or, for a cannabis cultivation facility, addresses of no more than two facility locations, located in a zone described in Subsection 4-41a-406(2)(a) or (b), where the applicant will operate the cannabis production establishment;
 - (ii) the name and address of any individual who has:
 - (A) for a publicly traded company, a financial or voting interest of 2% or greater in the proposed cannabis production establishment;
 - (B) for a privately held company, a financial or voting interest in the proposed cannabis production establishment; or
 - (C) the power to direct or cause the management or control of a proposed cannabis production establishment;
 - (iii) an operating plan that:
 - (A) complies with Section 4-41a-204;
 - (B) includes operating procedures that comply with this chapter and any law the municipality or county in which the person is located adopts that is consistent with Section 4-41a-406; and
 - (C) the department or licensing board approves;
 - (iv) a statement that the applicant will obtain and maintain a liquid cash account with a financial institution or a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least:
 - (A) \$100,000 for each cannabis cultivation facility for which the applicant applies; or
 - (B) \$50,000 for each cannabis processing facility or independent cannabis testing laboratory for which the applicant applies;
 - (v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and
 - (vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.
- (c)
- (i) A person may not locate a cannabis production establishment:
 - (A) within 1,000 feet of a community location; or
 - (B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.
 - (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

- (iii) The licensing board may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the licensing board determines that it is not reasonably feasible for the applicant to site the proposed cannabis production establishment without the waiver.
 - (iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).
- (3) If the licensing board approves an application for a license under this section and Section 4-41a-201.1:
- (a) the applicant shall pay the department:
 - (i) an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; or
 - (ii) a fee for a 120-day limited license to operate as a cannabis processing facility described in Subsection (3)(b) that is equal to 33% of the initial license fee described in Subsection (3)(a)(i); and
 - (b) the department shall notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).
- (4)
- (a) Except as provided in Subsection (4)(b), a cannabis production establishment shall obtain a separate license for each type of cannabis production establishment and each location of a cannabis production establishment.
 - (b) The licensing board may issue a cannabis cultivation facility license and a cannabis processing facility license to a person to operate at the same physical location or at separate physical locations.
- (5) If the licensing board receives more than one application for a cannabis production establishment within the same city or town, the licensing board shall consult with the local land use authority before approving any of the applications pertaining to that city or town.
- (6) The licensing board may not issue a license to operate an independent cannabis testing laboratory to a person who:
- (a) holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility;
 - (b) has an owner, officer, director, or employee whose family member holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility; or
 - (c) proposes to operate the independent cannabis testing laboratory at the same physical location as a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility.
- (7) The licensing board may not issue a license to operate a cannabis production establishment to an applicant if any individual described in Subsection (2)(b)(ii):
- (a) has been convicted under state or federal law of:
 - (i) a felony; or
 - (ii) after December 3, 2018, a misdemeanor for drug distribution;
 - (b) is younger than 21 years old; or
 - (c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.
- (8)
- (a) If an applicant for a cannabis production establishment license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the licensing board may not give preference to the applicant based on the applicant's status as a holder of the license.
 - (b) If an applicant for a license to operate a cannabis cultivation facility under this section holds a license to operate a medical cannabis pharmacy under this title, the licensing board may

give consideration to the applicant based on the applicant's status as a holder of a medical cannabis pharmacy license if:

- (i) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and
 - (ii) the licensing board finds multiple other factors, in addition to the existing license, that support granting the new license.
- (9) The licensing board may revoke a license under this part:
- (a) if the cannabis production establishment does not begin cannabis production operations within one year after the day on which the licensing board issues the initial license;
 - (b) after the third of the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;
 - (c) if any individual described in Subsection (2)(b) is convicted, while the license is active, under state or federal law of:
 - (i) a felony; or
 - (ii) after December 3, 2018, a misdemeanor for drug distribution;
 - (d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action;
 - (e) if the cannabis production establishment demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter;
 - (f) if, after a change of ownership described in Subsection (15)(b), the board determines that the cannabis production establishment no longer meets the minimum standards for licensure and operation of the cannabis production establishment described in this chapter; or
 - (g) for an independent cannabis testing laboratory, if the independent cannabis testing laboratory fails to substantially meet the performance standards described in Subsection (14)(b).
- (10)
- (a) A person who receives a cannabis production establishment license under this chapter, if the municipality or county where the licensed cannabis production establishment will be located requires a local land use permit, shall submit to the licensing board a copy of the licensee's approved application for the land use permit within 120 days after the day on which the licensing board issues the license.
 - (b) If a licensee fails to submit to the licensing board a copy of the licensee's approved land use permit application in accordance with Subsection (10)(a), the licensing board may revoke the licensee's license.
- (11) The department shall deposit the proceeds of a fee that the department imposes under this section into the Qualified Production Enterprise Fund.
- (12) The department shall begin accepting applications under this part on or before January 1, 2020.
- (13)
- (a) The department's authority, and consequently the licensing board's authority, to issue a license under this section is plenary and is not subject to review.
 - (b) Notwithstanding Subsection (2)(a)(ii)(A), the decision of the department to award a license to an applicant is not subject to:
 - (i) Title 63G, Chapter 6a, Part 16, Protests; or
 - (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.
- (14)

- (a) Notwithstanding this section, the department:
 - (i) may operate or partner with a research university to operate an independent cannabis testing laboratory;
 - (ii) if the department operates or partners with a research university to operate an independent cannabis testing laboratory, may not cease operating or partnering with a research university to operate the independent cannabis testing laboratory unless:
 - (A) the department issues at least two licenses to independent cannabis testing laboratories; and
 - (B) the department has ensured that the licensed independent cannabis testing laboratories have sufficient capacity to provide the testing necessary to support the state's medical cannabis market; and
 - (iii) after ceasing department or research university operations under Subsection (14)(a)(ii) shall resume independent cannabis testing laboratory operations at any time if:
 - (A) fewer than two licensed independent cannabis testing laboratories are operating; or
 - (B) the licensed independent cannabis testing laboratories become, in the department's determination, unable to fully meet the market demand for testing.
- (b)
 - (i) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish performance standards for the operation of an independent cannabis testing laboratory, including deadlines for testing completion.
 - (ii) A license that the department issues to an independent cannabis testing laboratory is contingent upon substantial satisfaction of the performance standards described in Subsection (14)(b)(i), as determined by the board.
- (15)
 - (a) A cannabis production establishment license is not transferrable or assignable.
 - (b) If the ownership of a cannabis production establishment changes by 50% or more:
 - (i) the cannabis production establishment shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c);
 - (ii) within 30 days of the submission of the application, the board shall:
 - (A) conduct the application review described in Section 4-41a-201.1; and
 - (B) award a license to the cannabis production establishment for the remainder of the term of the cannabis production establishment's license before the ownership change if the cannabis production establishment meets the minimum standards for licensure and operation of the cannabis production establishment described in this chapter; and
 - (iii) if the board approves the license application, notwithstanding Subsection (3), the cannabis production establishment shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

Amended by Chapter 273, 2023 General Session

Amended by Chapter 313, 2023 General Session

Amended by Chapter 327, 2023 General Session

Amended by Chapter 327, 2023 General Session, (Coordination Clause)

4-41a-201.1 Cannabis Production Establishment Licensing Advisory Board -- Composition -- Duties.

- (1) There is created within the department the Cannabis Production Establishment Licensing Advisory Board.

- (2) The commissioner shall:
 - (a) appoint the members of the board;
 - (b) submit the name of each individual that the commissioner appoints under Subsection (2)(a) to the governor for confirmation or rejection; and
 - (c) if the governor rejects an appointee that the commissioner submits under Subsection (2)(b), appoint another individual in accordance with this Subsection (2).
- (3)
 - (a) Except as provided in Subsection (3)(c), the board shall consist of the following six members:
 - (i) the following five voting members whom the commissioner appoints:
 - (A) one member of the public;
 - (B) one member with knowledge and experience in the pharmaceutical or nutraceutical manufacturing industry;
 - (C) one member representing law enforcement;
 - (D) one member whom an organization representing medical cannabis patients recommends; and
 - (E) a chemist who has experience with cannabis and who is associated with a research university; and
 - (ii) the commissioner or the commissioner's designee as a non-voting member, except to cast a deciding vote in the event of a tie.
 - (b) The commissioner may appoint a seventh member to the board who has a background in the cannabis cultivation and processing industry.
 - (c) The commissioner or the commissioner's designee shall serve as the chair of the board.
 - (d) An individual is not eligible for appointment to be a member of the board if the individual:
 - (i) has any commercial or ownership interest in a cannabis production establishment, medical cannabis pharmacy, or medical cannabis courier;
 - (ii) has an owner, officer, director, or employee whose family member holds a license or has an ownership interest in a cannabis production establishment, medical cannabis pharmacy, or medical cannabis courier; or
 - (iii) is employed or contracted to lobby on behalf of any cannabis production establishment, medical cannabis pharmacy, or medical cannabis courier.
- (4)
 - (a) Except as provided in Subsection (4)(b), a voting board member shall serve a term of four years, beginning July 1 and ending June 30.
 - (b) Notwithstanding Subsection (4)(a), for the initial appointments to the board, the commissioner shall stagger the length of the terms of board members to ensure that the commissioner appoints two or three board members every two years.
 - (c) As a board member's term expires:
 - (i) the board member is eligible for reappointment; and
 - (ii) the commissioner shall make an appointment, in accordance with Subsection (2), for the new term before the end of the member's term.
 - (d) When a vacancy occurs on the board for any reason other than the expiration of a board member's term, the commissioner shall appoint a replacement to the vacant position, in accordance with Subsection (2), for the unexpired term.
 - (e) In making appointments, the commissioner shall ensure that no two members of the board are employed by or represent the same company or nonprofit organization.
 - (f) The commissioner may remove a board member for cause, neglect of duty, inefficiency, or malfeasance.
- (5)

- (a)
 - (i) Four members of the board constitute a quorum of the board.
 - (ii) An action of the majority of the board members when a quorum is present constitutes an action of the board.
- (b) The department shall provide staff support to the board.
- (c) A member of the board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (i) Section 63A-3-106;
 - (ii) Section 63A-3-107; and
 - (iii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.
- (6) The board shall:
 - (a) meet as called by the chair to review cannabis production establishment license applications;
 - (b) review each license application for compliance with:
 - (i) this chapter; and
 - (ii) department rules;
 - (c) conduct a public hearing to consider the license application;
 - (d) approve the department's license application forms and checklists; and
 - (e) make a determination on each license application.
- (7) The board shall hold a public hearing to review a cannabis production establishment's license if the establishment:
 - (a) changes ownership by an interest of 20% or more;
 - (b) changes or adds a location;
 - (c) upgrades to a different licensing tier under department rule;
 - (d) changes extraction or formulation standard operating procedures;
 - (e) adds an industrial hemp processing or cultivation license to the same location as the cannabis production establishment's processing facility; or
 - (f) as necessary based on the recommendation of the department.
- (8)
 - (a) The board shall meet annually in December to consider cannabis production establishment license renewal applications.
 - (b) During the meeting described in Subsection (8)(a):
 - (i) a representative from each applicant for renewal shall:
 - (A) attend in person or electronically; or
 - (B) submit information before the meeting, as the board may require, for the board's consideration; and
 - (ii) the board shall consider, for each cannabis cultivation facility seeking renewal, information including:
 - (A) the amount of biomass the licensee produced during the current calendar year;
 - (B) the amount of biomass the licensee projects to produce during the following year;
 - (C) the amount of hemp waste the licensee currently holds;
 - (D) the current square footage or acres of growing area the licensee uses; and
 - (E) the square footage or acres of growing area the licensee projects to use in the following year; and
 - (iii) the board shall consider, for each cannabis processing facility seeking renewal, information including:
 - (A) methods and procedures for extraction;
 - (B) standard operating procedures; and

(C) a complete listing of the medical dosage forms that the licensee produces.

- (c) The information a licensee or license applicant provides to the board for a license determination constitutes a protected record under Subsection 63G-2-305(1) or (2) if the applicant or licensee provides the board with the information regarding business confidentiality required in Section 63G-2-309.

Enacted by Chapter 350, 2021 General Session

4-41a-202 Cannabis production establishment owners and directors -- Criminal background checks.

- (1) Each applicant for a license as a cannabis production establishment shall submit to the department, at the time of application, from each individual who has a financial or voting interest of 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:
- (a) a fingerprint card in a form acceptable to the Department of Public Safety;
 - (b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and
 - (c) consent to a fingerprint background check by:
 - (i) the Utah Bureau of Criminal Identification; and
 - (ii) the Federal Bureau of Investigation.
- (2) The Bureau of Criminal Identification shall:
- (a) check the fingerprints the applicant submits under Subsection (1) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;
 - (b) report the results of the background check to the department;
 - (c) maintain a separate file of fingerprints that applicants submit under Subsection (1) for search by future submissions to the local and regional criminal records databases, including latent prints;
 - (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and
 - (e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.
- (3) The department shall:
- (a) assess an individual who submits fingerprints under Subsection (1) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and
 - (b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal Identification.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

4-41a-203 Renewal.

The department shall renew a license issued under Section 4-41a-201 every year if:

- (1) the licensee meets the requirements of Section 4-41a-201 at the time of renewal;
- (2) the board does not identify:

- (a) a significant failure of compliance with this chapter or department rules in the review described in Section 4-41a-201.1; or
- (b) grounds for revocation described in Subsections 4-41a-201(9)(b) through (g);
- (3) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and
- (4) if the cannabis production establishment changes the operating plan described in Section 4-41a-204 that the department or licensing board approved under Subsection 4-41a-201(2)(b)(iii), the department approves the new operating plan.

Amended by Chapter 290, 2022 General Session

Amended by Chapter 350, 2021 General Session

4-41a-204 Operating plan.

- (1) A person applying for a cannabis production establishment license or license renewal shall submit to the department for the department's review a proposed operating plan that complies with this section and that includes:
 - (a) a description of the physical characteristics of the proposed facility or, for a cannabis cultivation facility, no more than two facility locations, including a floor plan and an architectural elevation;
 - (b) a description of the credentials and experience of:
 - (i) each officer, director, and owner of the proposed cannabis production establishment; and
 - (ii) any highly skilled or experienced prospective employee;
 - (c) the cannabis production establishment's employee training standards;
 - (d) a security plan;
 - (e) a description of the cannabis production establishment's inventory control system, including a description of how the inventory control system is compatible with the state electronic verification system described in Section 26B-4-202;
 - (f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis;
 - (g) for a cannabis cultivation facility, the information described in Subsection (2);
 - (h) for a cannabis processing facility, the information described in Subsection (3); and
 - (i) for an independent cannabis testing laboratory, the information described in Subsection (4).
- (2)
 - (a) A cannabis cultivation facility shall ensure that the facility's operating plan includes the facility's intended:
 - (i) cannabis cultivation practices, including the facility's intended pesticide use and fertilizer use; and
 - (ii) subject to Subsection (2)(b), acreage or square footage under cultivation and anticipated cannabis yield.
 - (b) Except as provided in Subsection (2)(c)(i) or (c)(ii), a cannabis cultivation facility may not:
 - (i) for a facility that cultivates cannabis only indoors, use more than 100,000 total square feet of cultivation space;
 - (ii) for a facility that cultivates cannabis only outdoors, use more than four acres for cultivation; and
 - (iii) for a facility that cultivates cannabis through a combination of indoor and outdoor cultivation, use more combined indoor square footage and outdoor acreage than allowed under the department's formula described in Subsection (2)(e).
- (c)

- (i) Each licensee may apply to the department for:
 - (A) a one-time, permanent increase of up to 20% of the limitation on the cannabis cultivation facility's cultivation space; or
 - (B) a short-term increase, not to exceed 12 months, of up to 40% of the limitation on the cannabis cultivation facility's cultivation space.
- (ii) After conducting a review equivalent to the review described in Subsection 4-41a-205(2)(a), if the department determines that additional cultivation is needed, the department may:
 - (A) grant the one-time, permanent increase described in Subsection (2)(c)(i)(A); or
 - (B) grant the short-term increase described in Subsection (2)(c)(i)(B).
- (d) If a licensee describes an intended acreage or square footage under cultivation under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b), the licensee may not cultivate more than the licensee's identified intended acreage or square footage under cultivation.
- (e) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a formula for combined usage of indoor and outdoor cultivation that:
 - (i) does not exceed, in estimated cultivation yield, the aggregate limitations described in Subsection (2)(b)(i) or (ii); and
 - (ii) allows a cannabis cultivation facility to operate both indoors and outdoors.
- (f)
 - (i) The department may authorize a cannabis cultivation facility to operate at no more than two separate locations.
 - (ii) If the department authorizes multiple locations under Subsection (2)(f)(i), the two cannabis cultivation facility locations combined may not exceed the cultivation limitations described in this Subsection (2).
- (3) A cannabis processing facility's operating plan shall include the facility's intended cannabis processing practices, including the cannabis processing facility's intended:
 - (a) offered variety of cannabis product;
 - (b) cannabinoid extraction method;
 - (c) cannabinoid extraction equipment;
 - (d) processing equipment;
 - (e) processing techniques; and
 - (f) sanitation and manufacturing safety procedures for items for human consumption.
- (4) An independent cannabis testing laboratory's operating plan shall include the laboratory's intended:
 - (a) cannabis and cannabis product testing capability;
 - (b) cannabis and cannabis product testing equipment; and
 - (c) testing methods, standards, practices, and procedures for testing cannabis and cannabis products.
- (5) Notwithstanding an applicant's proposed operating plan, a cannabis production establishment is subject to land use regulations, as defined in Sections 10-9a-103 and 17-27a-103, regarding the availability of outdoor cultivation in an industrial zone.

Amended by Chapter 327, 2023 General Session

4-41a-205 Number of licenses -- Cannabis cultivation facilities.

- (1) Except as provided in Subsection (2)(a), the department shall issue at least five but not more than eight licenses to operate a cannabis cultivation facility.

- (2)
 - (a) The department may issue a number of licenses to operate a cannabis cultivation facility that, in addition to the licenses described in Subsection (1), does not cause the total number of licenses to exceed 15 if the department determines, in consultation with the Department of Health and after an annual or more frequent analysis of the current and anticipated market for medical cannabis, that each additional license is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical cannabis cardholders.
 - (b) If the recipient of one of the initial licenses described in Subsection (1) ceases operations for any reason or otherwise abandons the license, the department may but is not required to grant the vacant license to another applicant based on an analysis as described in Subsection (2)(a).
- (3) If there are more qualified applicants than the number of available licenses for cannabis cultivation facilities under Subsections (1) and (2), the department shall evaluate the applicants and award the limited number of licenses described in Subsections (1) and (2) to the applicants that best demonstrate:
 - (a) experience with establishing and successfully operating a business that involves:
 - (i) complying with a regulatory environment;
 - (ii) tracking inventory; and
 - (iii) training, evaluating, and monitoring employees;
 - (b) an operating plan that will best ensure the safety and security of patrons and the community;
 - (c) positive connections to the local community; and
 - (d) the extent to which the applicant can increase efficiency and reduce the cost to patients of medical cannabis.
- (4) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (3).

Amended by Chapter 12, 2020 General Session

Part 3

Cannabis Production Establishments Agents

4-41a-301 Cannabis production establishment agent -- Registration.

- (1) An individual may not act as a cannabis production establishment agent unless the department registers the individual as a cannabis production establishment agent, regardless of whether the individual is a seasonal, temporary, or permanent employee.
- (2) The following individuals, regardless of the individual's status as a qualified medical provider, may not serve as a cannabis production establishment agent, have a financial or voting interest of 2% or greater in a cannabis production establishment, or have the power to direct or cause the management or control of a cannabis production establishment:
 - (a) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
 - (b) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;
 - (c) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
 - (d) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

- (3) An independent cannabis testing laboratory agent may not act as an agent for a medical cannabis pharmacy, a medical cannabis courier, a cannabis processing facility, or a cannabis cultivation facility.
- (4)
 - (a) The department shall, within 15 business days after the day on which the department receives a complete application from a prospective cannabis production establishment agent, register and issue a cannabis production establishment agent registration card to the prospective agent if the prospective agent:
 - (i) provides to the department:
 - (A) the prospective agent's name and address;
 - (B) which cannabis production establishment agent designations the applicant desires; and
 - (C) the submission required under Subsection (4)(b); and
 - (ii) pays a fee to the department in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.
 - (b) Each prospective agent described in Subsection (4)(a) shall:
 - (i) submit to the department:
 - (A) a fingerprint card in a form acceptable to the Department of Public Safety; and
 - (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and
 - (ii) consent to a fingerprint background check by:
 - (A) the Bureau of Criminal Identification; and
 - (B) the Federal Bureau of Investigation.
 - (c) The Bureau of Criminal Identification shall:
 - (i) check the fingerprints the prospective agent submits under Subsection (4)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;
 - (ii) report the results of the background check to the department;
 - (iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (4)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;
 - (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and
 - (v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.
 - (d) The department shall:
 - (i) assess an individual who submits fingerprints under Subsection (4)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and
 - (ii) remit the fee described in Subsection (4)(d)(i) to the Bureau of Criminal Identification.
- (5)
 - (a) The department shall designate, on an individual's cannabis production establishment agent registration card

the type of cannabis production establishment for which the individual is authorized to act as an agent.

- (b) When issuing a card under Subsection (5)(a) the department:
 - (i) may issue a cannabis production establishment agent registration card that contains both a cannabis processing facility designation and a cannabis cultivator facility designation; and
 - (ii) if the cannabis production establishment agent registration card will contain an independent cannabis testing laboratory designation, may not include any other designations.
- (6) A cannabis production establishment agent shall comply with:
 - (a) a certification standard that the department develops; or
 - (b) a certification standard that the department has reviewed and approved.
- (7)
 - (a) The department shall ensure that the certification standard described in Subsection (6) includes training:
 - (i) in Utah medical cannabis law;
 - (ii) for a cannabis cultivation facility agent, in cannabis cultivation best practices;
 - (iii) for a cannabis processing facility agent, in cannabis processing, manufacturing safety procedures for items for human consumption, and sanitation best practices; and
 - (iv) for an independent cannabis testing laboratory agent, in cannabis testing best practices.
 - (b) The department shall review the training described in Subsection (7)(a) annually or as often as necessary to ensure compliance with this section.
- (8) For an individual who holds or applies for a cannabis production establishment agent registration card:
 - (a) the department may revoke or refuse to issue the card if the individual violates the requirements of this chapter; and
 - (b) the department shall revoke or refuse to issue the card if the individual is convicted under state or federal law of:
 - (i) a felony; or
 - (ii) after December 3, 2018, a misdemeanor for drug distribution.
- (9)
 - (a) A cannabis production establishment agent registration card expires two years after the day on which the department issues the card.
 - (b) A cannabis production establishment agent may renew the agent's registration card if the agent:
 - (i) is eligible for a cannabis production establishment registration card under this section;
 - (ii) certifies to the department in a renewal application that the information in Subsection (4)(a) is accurate or updates the information; and
 - (iii) pays to the department a renewal fee in an amount that:
 - (A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and
 - (B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.
- (10) A cannabis production establishment shall:
 - (a) maintain a list of each employee that holds a cannabis production establishment agent registration card; and
 - (b) provide the list to the department upon request.

Amended by Chapter 313, 2023 General Session

4-41a-302 Cannabis production establishment agent registration card -- Rebuttable presumption.

- (1) A cannabis production establishment agent whom the department registers under Section 4-41a-301 shall carry the individual's cannabis production establishment agent registration card with the agent at all times when:
 - (a) the agent is on the premises of a cannabis production establishment where the agent is registered;
 - (b) the agent is transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device between:
 - (i) two cannabis production establishments; or
 - (ii) a cannabis production establishment and a medical cannabis pharmacy; and
 - (c) if the cannabis production establishment agent is an agent of a cannabis cultivation facility, the agent is transporting raw cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory.
- (2) If a cannabis processing facility agent possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device and produces the registration card in the agent's possession in compliance with Subsection (1) while handling, at a cannabis production establishment, or transporting the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1):
 - (a) there is a rebuttable presumption that the agent possesses the cannabis, cannabis product, or medical cannabis device legally; and
 - (b) a law enforcement officer does not have probable cause, based solely on the agent's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device in compliance with Subsection (1), to believe that the individual is engaging in illegal activity.
- (3)
 - (a) A cannabis production establishment agent who fails to carry the agent's cannabis production establishment agent registration card in accordance with Subsection (1) is:
 - (i) for a first or second offense in a two-year period:
 - (A) guilty of an infraction; and
 - (B) subject to a \$100 fine; or
 - (ii) for a third or subsequent offense in a two-year period:
 - (A) guilty of a class C misdemeanor; and
 - (B) subject to a \$750 fine.
 - (b)
 - (i) The prosecuting entity shall notify the department and the relevant cannabis production establishment of each conviction under Subsection (3)(a).
 - (ii) For each violation described in Subsection (3)(a)(ii), the department may assess the relevant cannabis production establishment a fine of up to \$5,000, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
 - (c) An individual who is guilty of a violation described in Subsection (3)(a) is not guilty for a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (3)(a).

Amended by Chapter 5, 2019 Special Session 1

Part 4

General Cannabis Production Establishment Operating Requirements

4-41a-401 Cannabis production establishment -- General operating requirements.

- (1)
 - (a) A cannabis production establishment shall operate in accordance with the operating plan described in Sections 4-41a-201 and 4-41a-204.
 - (b) A cannabis production establishment shall notify the department before a change in the cannabis production establishment's operating plan.
 - (c)
 - (i) If a cannabis production establishment changes the cannabis production establishment's operating plan, the establishment shall ensure that the new operating plan complies with this chapter.
 - (ii) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to:
 - (A) review a change notification described in Subsection (1)(b);
 - (B) identify for the cannabis production establishment each point of noncompliance between the new operating plan and this chapter;
 - (C) provide an opportunity for the cannabis production establishment to address each identified point of noncompliance; and
 - (D) suspend or revoke a license if the cannabis production establishment fails to cure the noncompliance.
- (2) A cannabis production establishment shall operate:
 - (a) except as provided in Subsection (5), in a facility that is accessible only by an individual with a valid cannabis production establishment agent registration card issued under Section 4-41a-301; and
 - (b) at the physical address provided to the department under Section 4-41a-201.
- (3) A cannabis production establishment may not employ an individual who is younger than 21 years old.
- (4) A cannabis production establishment may not employ an individual who has been convicted, under state or federal law, of:
 - (a) a felony; or
 - (b) after December 3, 2018, a misdemeanor for drug distribution.
- (5) A cannabis production establishment may authorize an individual who is at least 18 years old and is not a cannabis production establishment agent to access the cannabis production establishment if the cannabis production establishment:
 - (a) tracks and monitors the individual at all times while the individual is at the cannabis production establishment; and
 - (b) maintains a record of the individual's access, including arrival and departure.
- (6) A cannabis production establishment shall operate in a facility that has:
 - (a) a single, secure public entrance;
 - (b) a security system with a backup power source that:
 - (i) detects and records entry into the cannabis production establishment; and
 - (ii) provides notice of an unauthorized entry to law enforcement when the cannabis production establishment is closed; and
 - (c) a lock or equivalent restrictive security feature on any area where the cannabis production establishment stores cannabis or a cannabis product.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

4-41a-402 Inspections.

- (1) The department may inspect the records and facility of a cannabis production establishment at any time during business hours to determine if the cannabis production establishment complies with this chapter.
- (2)
 - (a) An inspection under this section may include:
 - (i) inspection of a site, facility, vehicle, book, record, paper, document, data, and other physical or electronic information;
 - (ii) questioning of any relevant individual;
 - (iii) observation of an independent cannabis testing laboratory's methods, standards, practices, and procedures;
 - (iv) the taking of a specimen of cannabis or cannabis products sufficient for testing purposes; or
 - (v) inspection of equipment, an instrument, a tool, or machinery, including a container or label.
 - (b) Notwithstanding Section 4-41a-404, an authorized department employee may possess and transport a specimen of cannabis or cannabis products for testing described in Subsection (2)(a).
- (3) In making an inspection under this section, the department may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information, including financial data, sales data, shipping data, pricing data, and employee data.
- (4) Failure to provide the department or the department's authorized agents immediate access to records and facilities during business hours in accordance with this section may result in:
 - (a) the imposition of a civil monetary penalty that the department sets in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (b) license or registration suspension or revocation; or
 - (c) an immediate cessation of operations under a cease and desist order that the department issues.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

4-41a-403 Advertising.

- (1) Except as provided in this section, a cannabis production establishment may not advertise to the general public in any medium.
- (2) A cannabis production establishment may advertise an employment opportunity at the cannabis production establishment.
- (3) A cannabis production establishment may maintain a website that:
 - (a) contains information about the establishment and employees; and
 - (b) does not advertise any medical cannabis, cannabis products, or medical cannabis devices.
- (4)
 - (a) Notwithstanding any municipal or county ordinance prohibiting signage, a cannabis production establishment may use signage on the outside of the cannabis production establishment that:
 - (i) includes only:
 - (A) in accordance with Subsection (4)(b), the cannabis production establishment's name, logo, and hours of operation; and

- (B) a green cross; and
- (ii) complies with local ordinances regulating signage.
- (b) The department shall define standards for a cannabis production establishment's name and logo to ensure a medical rather than recreational disposition.
- (5)
 - (a) A cannabis production establishment may hold an educational event for the public or medical providers in accordance with this Subsection (5) and the rules described in Subsection (5)(c).
 - (b) A cannabis production establishment may not include in an educational event described in Subsection (5)(a):
 - (i) any topic that conflicts with this chapter or Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis;
 - (ii) any gift items or merchandise other than educational materials, as those terms are defined by the department;
 - (iii) any marketing for a specific product from the cannabis production establishment or any other statement, claim, or information that would violate the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or
 - (iv) a presenter other than the following:
 - (A) a cannabis production establishment agent;
 - (B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
 - (C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;
 - (D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
 - (E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act; or
 - (F) a state employee.
 - (c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the elements of and restrictions on the educational event described in Subsection (5)(a), including a minimum age of 21 years old for attendees.

Amended by Chapter 327, 2023 General Session

Superseded 7/1/2023

4-41a-404 Medical cannabis transportation.

- (1)
 - (a) Only the following individuals may transport cannabis or a cannabis product under this chapter:
 - (i) a cannabis production establishment agent; or
 - (ii) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to possess under this chapter.
 - (b) Only an agent of a cannabis cultivation facility, when the agent is transporting cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory, may transport unprocessed cannabis outside of a medicinal dosage form.
- (2) Except for an individual with a valid medical cannabis card under Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, who is transporting a medical cannabis treatment, an individual transporting cannabis or a cannabis product shall:
 - (a) be employed by the entity licensed under this chapter that is authorizing the transportation of the cannabis or cannabis product; and

- (b) possess a transportation manifest that:
 - (i) includes a unique identifier that links the cannabis or cannabis product to a relevant inventory control system;
 - (ii) includes origin and destination information for any cannabis or cannabis product that the individual is transporting; and
 - (iii) identifies the departure and arrival times and locations of the individual transporting the cannabis or cannabis product.
- (3)
 - (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis or cannabis product to ensure that the cannabis or cannabis product remains safe for human consumption.
 - (b) The transportation described in Subsection (3)(a) is limited to transportation:
 - (i) between a cannabis production establishment and another cannabis production establishment; and
 - (ii) between a cannabis processing facility and a medical cannabis pharmacy.
- (4)
 - (a) It is unlawful for a registered cannabis production establishment agent to make a transport described in this section with a manifest that does not meet the requirements of this section.
 - (b) Except as provided in Subsection (4)(d), an agent who violates Subsection (4)(a) is:
 - (i) guilty of an infraction; and
 - (ii) subject to a \$100 fine.
 - (c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).
 - (d) If the agent described in Subsection (4)(a) is transporting more cannabis or cannabis product than the manifest identifies, except for a de minimis administrative error:
 - (i) the penalty described in Subsection (4)(b) does not apply; and
 - (ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.
- (5) Nothing in this section prevents the department from taking administrative enforcement action against a cannabis production establishment or another person for failing to make a transport in compliance with the requirements of this section.
- (6) An individual other than an individual described in Subsection (1) may transport a medical cannabis device within the state if the transport does not also contain medical cannabis.

Amended by Chapter 313, 2023 General Session

Amended by Chapter 327, 2023 General Session

Effective 7/1/2023

4-41a-404 Medical cannabis transportation.

- (1)
 - (a) Except as provided in Part 12, Medical Cannabis Home Delivery and Couriers, the following individuals may transport cannabis or a cannabis product under this chapter:
 - (i) a cannabis production establishment agent;
 - (ii) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to possess under this chapter;
 - (iii) a registered medical cannabis pharmacy agent;
 - (iv) a registered medical cannabis courier agent; and

- (v) a registered pharmacy medical provider.
- (b) Only an agent of a cannabis cultivation facility, when the agent is transporting cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory, may transport unprocessed cannabis outside of a medicinal dosage form.
- (2) Except for an individual with a valid medical cannabis card under Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, who is transporting a medical cannabis treatment, an individual transporting cannabis or a cannabis product shall:
 - (a) be employed by the entity licensed under this chapter that is authorizing the transportation of the cannabis or cannabis product; and
 - (b) possess a transportation manifest that:
 - (i) includes a unique identifier that links the cannabis or cannabis product to a relevant inventory control system;
 - (ii) includes origin and destination information for any cannabis or cannabis product that the individual is transporting; and
 - (iii) identifies the departure and arrival times and locations of the individual transporting the cannabis or cannabis product.
- (3)
 - (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis or cannabis product to ensure that the cannabis or cannabis product remains safe for human consumption.
 - (b) The transportation described in Subsection (3)(a) is limited to transportation:
 - (i) between a cannabis production establishment and another cannabis production establishment;
 - (ii) between a cannabis processing facility and a medical cannabis pharmacy; and
 - (iii) a medical cannabis pharmacy and:
 - (A) another medical cannabis pharmacy; or
 - (B) for a medical cannabis shipment, a delivery address.
- (4)
 - (a) It is unlawful for a registered cannabis production establishment agent to make a transport described in this section with a manifest that does not meet the requirements of this section.
 - (b) Except as provided in Subsection (4)(d), an agent who violates Subsection (4)(a) is:
 - (i) guilty of an infraction; and
 - (ii) subject to a \$100 fine.
 - (c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).
 - (d) If the agent described in Subsection (4)(a) is transporting more cannabis or cannabis product than the manifest identifies, except for a de minimis administrative error:
 - (i) the penalty described in Subsection (4)(b) does not apply; and
 - (ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.
- (5) Nothing in this section prevents the department from taking administrative enforcement action against a cannabis production establishment, medical cannabis pharmacy, medical cannabis courier, or another person for failing to make a transport in compliance with the requirements of this section.
- (6) An individual other than an individual described in Subsection (1) may transport a medical cannabis device within the state if the transport does not also contain medical cannabis.

Amended by Chapter 273, 2023 General Session
Amended by Chapter 313, 2023 General Session
Amended by Chapter 327, 2023 General Session

4-41a-405 Excess and disposal.

- (1) As used in this section, "medical cannabis waste" means waste and unused material from the cultivation and production of medical cannabis.
- (2) A cannabis production establishment shall:
 - (a) render medical cannabis waste unusable and unrecognizable before transporting the medical cannabis waste from the cannabis production establishment; and
 - (b) dispose of medical cannabis waste in accordance with:
 - (i) federal and state laws, rules, and regulations related to hazardous waste;
 - (ii) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;
 - (iii) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and
 - (iv) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) An individual may not transport or dispose of medical cannabis waste other than as provided in this section.

Enacted by Chapter 1, 2018 Special Session 3

4-41a-406 Local control.

- (1) As used in this section:
 - (a) "Land use decision" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.
 - (b) "Land use permit" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.
 - (c) "Land use regulation" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.
- (2)
 - (a) If a municipality's or county's zoning ordinances provide for an industrial zone, the operation of a cannabis production establishment shall be a permitted industrial use in any industrial zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a cannabis production establishment, at least one industrial zone in which the operation of a cannabis production establishment is a permitted use.
 - (b) If a municipality's or county's zoning ordinances provide for an agricultural zone, the operation of a cannabis production establishment shall be a permitted agricultural use in any agricultural zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a cannabis production establishment, at least one agricultural zone in which the operation of a cannabis production establishment is a permitted use.
 - (c) The operation of a cannabis production establishment shall be a permitted use on land that the municipality or county has not zoned.
- (3) A municipality or county may not:
 - (a) on the sole basis that the applicant or cannabis production establishment violates federal law regarding the legal status of cannabis, deny or revoke:
 - (i) a land use permit to operate a cannabis production facility; or

- (ii) a business license to operate a cannabis production facility;
- (b) require a certain distance between a cannabis production establishment and:
 - (i) another cannabis production establishment;
 - (ii) a medical cannabis pharmacy;
 - (iii) a retail tobacco specialty business, as that term is defined in Section 26B-7-501; or
 - (iv) an outlet, as that term is defined in Section 32B-1-202; or
- (c) in accordance with Subsections 10-9a-509(1) and 17-27a-508(1), enforce a land use regulation against a cannabis production establishment that was not in effect on the day on which the cannabis production establishment submitted a complete land use application.
- (4) An applicant for a land use permit to operate a cannabis production establishment shall comply with the land use requirements and application process described in:
 - (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, including Section 10-9a-528; and
 - (b) Title 17, Chapter 27a, County Land Use, Development, and Management Act, including Section 17-27a-525.

Amended by Chapter 327, 2023 General Session

Part 5

Cannabis Cultivation Facility Operating Requirements

4-41a-501 Cannabis cultivation facility -- Operating requirements.

- (1) A cannabis cultivation facility shall ensure that any cannabis growing at the cannabis cultivation facility is not visible from the ground level of the cannabis cultivation facility perimeter.
- (2) A cannabis cultivation facility shall use a unique identifier that is connected to the facility's inventory control system to identify:
 - (a) beginning at the time a cannabis plant is eight inches tall and has a root ball, each cannabis plant;
 - (b) each unique harvest of cannabis plants;
 - (c) each batch of cannabis the facility transfers to a medical cannabis pharmacy, a cannabis processing facility, or an independent cannabis testing laboratory; and
 - (d) any excess, contaminated, or deteriorated cannabis of which the cannabis cultivation facility disposes.
- (3) A cannabis cultivation facility shall identify cannabis biomass as cannabis byproduct or cannabis plant product before transferring the cannabis biomass from the facility.
- (4) A cannabis cultivation facility shall either:
 - (a) ensure that a cannabis processing facility chemically or physically processes cannabis cultivation byproduct to produce a cannabis concentrate for incorporation into cannabis derivative products; or
 - (b) destroy cannabis cultivation byproduct in accordance with Section 4-41a-405.

Amended by Chapter 313, 2023 General Session

4-41a-502 Cannabis -- Labeling and child-resistant packaging.

- (1) For any cannabis that a cannabis cultivation facility cultivates or otherwise produces and subsequently ships to another cannabis production establishment, the facility shall:

- (a) label the cannabis with a label that has a unique batch identification number that is connected to the inventory control system; and
 - (b) package the cannabis in a container that is:
 - (i) tamper evident; and
 - (ii) not appealing to children.
- (2) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to further define standards regarding containers that may appeal to children under Subsection (1)(b)(ii).

Amended by Chapter 290, 2022 General Session

Renumbered and Amended by Chapter 1, 2018 Special Session 3

Part 6

Cannabis Processing Facility Operating Requirements

4-41a-601 Cannabis processing facility -- Operating requirements -- General.

A cannabis processing facility shall ensure that a cannabis product the cannabis processing facility sells complies with the requirements of this part.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

4-41a-602 Cannabis product -- Labeling and child-resistant packaging.

- (1) For any cannabis product that a cannabis processing facility processes or produces and for any raw cannabis that the facility packages, the facility shall:
- (a) label the cannabis or cannabis product with a label that:
 - (i) clearly and unambiguously states that the cannabis product or package contains cannabis;
 - (ii) clearly displays the amount of total composite tetrahydrocannabinol, cannabidiol, and any known cannabinoid that is greater than 1% of the total cannabinoids contained in the cannabis or cannabis product as determined under Subsection 4-41a-701(4);
 - (iii) has a unique identification number that:
 - (A) is connected to the inventory control system; and
 - (B) identifies the unique cannabis product manufacturing process the cannabis processing facility used to manufacture the cannabis product;
 - (iv) identifies the cannabinoid extraction process that the cannabis processing facility used to create the cannabis product;
 - (v) does not display an image, word, or phrase that the facility knows or should know appeals to children; and
 - (vi) discloses each active or potentially active ingredient, in order of prominence, and possible allergen; and
 - (b) package the raw cannabis or cannabis product in a medicinal dosage form in a container that:
 - (i) is tamper evident and tamper resistant;
 - (ii) does not appeal to children;
 - (iii) does not mimic a candy container;
 - (iv) complies with child-resistant effectiveness standards that the United States Consumer Product Safety Commission establishes;
 - (v) includes a warning label that states:

- (A) for a container labeled before July 1, 2021, "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a qualified medical provider.";
- (B) for a container labeled on or after July 1, 2021, "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider."; or
- (C) for a container labeled on or after January 1, 2024, "WARNING: Cannabis has intoxicating effects, may be addictive, and may increase risk of mental illness. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider."; and
- (vi) for raw cannabis or a cannabis product sold in a vaporizer cartridge labeled on or after May 3, 2023, includes a warning label that states:
 - (A) "WARNING: Vaping of cannabis-derived products has been associated with lung injury."; and
 - (B) "WARNING: Inhalation of cannabis smoke has been associated with lung injury."
- (2) For any cannabis or cannabis product that the cannabis processing facility processes into a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape, the facility shall:
 - (a) ensure that the label described in Subsection (1)(a) does not contain a photograph or other image of the content of the container; and
 - (b) include on the label described in Subsection (1)(a) a warning about the risks of over-consumption.
- (3) For any cannabis product that contains an artificially derived cannabinoid, the cannabis processing facility shall ensure that the label clearly:
 - (a) identifies each artificially derived cannabinoid; and
 - (b) identifies that each artificially derived cannabinoid is an artificially derived cannabinoid.
- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department:
 - (a) shall make rules to establish:
 - (i) a standard labeling format that:
 - (A) complies with the requirements of this section; and
 - (B) ensures inclusion of a pharmacy label; and
 - (ii) additional requirements on packaging for cannabis and cannabis products to ensure safety and product quality; and
 - (b) may make rules to further define standards regarding images, words, phrases, or containers that may appeal to children under Subsection (1)(a)(v) or (1)(b)(ii).

Amended by Chapter 313, 2023 General Session

4-41a-603 Cannabis product -- Product quality.

- (1) A cannabis processing facility:
 - (a) may not produce a cannabis product in a physical form that:
 - (i) the facility knows or should know appeals to children;
 - (ii) is designed to mimic or could be mistaken for a candy product; or
 - (iii) for a cannabis product used in vaporization, includes a candy-like flavor or another flavor that the facility knows or should know appeals to children;

- (b) notwithstanding Subsection (1)(a)(iii), may produce a concentrated oil with a flavor that the department approves to facilitate minimizing the taste or odor of cannabis; and
- (c) shall ensure that batch heavy metal testing is conducted on any vaporizer cartridge that is used with a cannabis product.
- (2) A cannabis product may vary in the cannabis product's labeled cannabinoid profile by up to 10% of the indicated amount of a given cannabinoid, by weight.
- (3) A cannabis processing facility shall isolate any artificially derived cannabinoid to a purity of greater than 95%, as determined by an independent cannabis testing laboratory using liquid chromatography-mass spectroscopy or an equivalent method.
- (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
 - (a) adopt human safety standards for the manufacturing of cannabis products that are consistent with best practices for the use of cannabis; and
 - (b) further define standards regarding products that may appeal to children under Subsection (1)(a).
- (5) Nothing in this section prohibits a sugar coating on a gelatinous cube, gelatinous rectangular cuboid, or lozenge to mask the product's taste, subject to the limitations on form and appearance described in Subsections (1)(a) and (4)(b).

Amended by Chapter 313, 2023 General Session

Part 7

Independent Cannabis Testing Laboratories

4-41a-701 Cannabis and cannabis product testing.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to:
 - (a) determine required adulterant tests for a cannabis plant product, cannabis concentrate, or cannabis product;
 - (b) determine the amount of any adulterant that is safe for human consumption;
 - (c) immediately ban or limit the presence of any ingredient in a medical cannabis product after receiving a recommendation to do so from a public health authority under Section 26B-1-102;
 - (d) establish protocols for a recall of cannabis or a cannabis product by a cannabis production establishment; or
 - (e) allow the propagation of testing results forward to derived product if the processing steps the cannabis production establishment uses to produce the product are unlikely to change the results of the test.
- (2) The department may require testing for a toxin if:
 - (a) the department receives information indicating the potential presence of a toxin; or
 - (b) the department's inspector has reason to believe a toxin may be present based on the inspection of a facility.
- (3)
 - (a) A cannabis production establishment may not:
 - (i) incorporate cannabis concentrate into a cannabis derivative product until an independent cannabis testing laboratory tests the cannabis concentrate in accordance with department rule; or

- (ii) transfer cannabis or a cannabis product to a medical cannabis pharmacy until an independent cannabis testing laboratory tests a representative sample of the cannabis or cannabis product in accordance with department rule.
- (b) A medical cannabis pharmacy may not offer any cannabis or cannabis product for sale unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product in accordance with department rule.
- (4) Before the sale of a cannabis product, an independent cannabis testing laboratory shall:
 - (a) identify and quantify any cannabinoid known to be present in a cannabis product; and
 - (b) test terpene profiles for the following products:
 - (i) raw cannabis; or
 - (ii) a cannabis product:
 - (A) contained in a vaporizer cartridge; or
 - (B) in concentrate form; and
 - (c) record the five highest terpene profiles tested under Subsection (4)(b).
- (5) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for the testing of cannabis and cannabis products by independent cannabis testing laboratories.
- (6) The department may require an independent cannabis testing laboratory to participate in a proficiency evaluation that the department conducts or that an organization that the department approves conducts.

Amended by Chapter 313, 2023 General Session

Amended by Chapter 317, 2023 General Session

4-41a-702 Reporting -- Inspections -- Seizure by the department.

- (1) If an independent cannabis testing laboratory determines that the results of a lab test indicate that a cannabis or cannabis product batch may be unsafe for human use:
 - (a) the independent cannabis testing laboratory shall report the results and the cannabis or cannabis product batch to:
 - (i) the department; and
 - (ii) the cannabis production establishment that prepared the cannabis or cannabis product batch;
 - (b) the department shall place a hold on the cannabis or cannabis product batch to:
 - (i) investigate the cause of the defective batch; and
 - (ii) make a determination; and
 - (c) the cannabis production establishment that prepared the cannabis or cannabis product batch may appeal the determination described in Subsection (1)(b)(ii) to the department.
- (2) If the department determines, under Subsection (1)(b)(ii) or following an appeal under Subsection (1)(c), that a cannabis or cannabis product prepared by a cannabis production establishment is unsafe for human consumption, the department may seize, embargo, or destroy, in the same manner as a cannabis production establishment under Section 4-41a-405, the cannabis or cannabis product batch.
- (3) If an independent cannabis testing laboratory determines that the results of a lab test indicate that the cannabinoid content of a cannabis or cannabis product batch diverges more than 10% from the amounts the label indicates, the cannabis processing facility may not sell the cannabis or cannabis product batch unless the facility replaces the incorrect label with a label that correctly indicates the cannabinoid content.

Amended by Chapter 350, 2021 General Session

Part 8 Enforcement and Report

4-41a-801 Enforcement -- Fine -- Citation.

- (1) If a person that is a cannabis production establishment or a cannabis production establishment agent violates this chapter, the department may:
 - (a) revoke the person's license or cannabis production establishment agent registration card;
 - (b) decline to renew the person's license or cannabis production establishment agent registration card; or
 - (c) assess the person an administrative penalty that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) The department shall deposit an administrative penalty imposed under this section into the General Fund.
- (3)
 - (a) The department may take an action described in Subsection (3)(b) if the department concludes, upon investigation, that, for a person that is a cannabis production establishment or a cannabis production establishment agent:
 - (i) the person has violated the provisions of this chapter, a rule made under this chapter, or an order issued under this chapter; or
 - (ii) the person produced cannabis or a cannabis product batch that contains a substance, other than cannabis, that poses a significant threat to human health.
 - (b) If the department makes the determination about a person described in Subsection (3)(a), the department shall:
 - (i) issue the person a written administrative citation;
 - (ii) attempt to negotiate a stipulated settlement;
 - (iii) seize, embargo, or destroy the cannabis or cannabis product batch;
 - (iv) order the person to cease and desist from the action that creates a violation; and
 - (v) direct the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.
- (4) The department may, for a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section, for a fine amount not already specified in law, assess the person, who is not an individual, a fine of up to \$5,000 per violation, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (5) The department may not revoke a cannabis production establishment's license without first directing the cannabis production establishment to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.
- (6) If within 20 calendar days after the day on which a department serves a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.
- (7) The department may, for a person who fails to comply with a citation under this section:
 - (a) refuse to issue or renew the person's license or cannabis production establishment agent registration card; or

- (b) suspend, revoke, or place on probation the person's license or cannabis production establishment registration card.
- (8)
 - (a) Except where a criminal penalty is expressly provided for a specific violation of this chapter, if an individual:
 - (i) violates a provision of this chapter, the individual is:
 - (A) guilty of an infraction; and
 - (B) subject to a \$100 fine; or
 - (ii) intentionally or knowingly violates a provision of this chapter or violates this chapter three or more times, the individual is:
 - (A) guilty of a class B misdemeanor; and
 - (B) subject to a \$1,000 fine.
 - (b) An individual who is guilty of a violation described in Subsection (8)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (8)(a).
- (9) Nothing in this section prohibits the department from referring potential criminal activity to law enforcement.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

Effective 7/1/2023

4-41a-801.1 Enforcement for medical cannabis pharmacies and couriers -- Fine -- Citation.

- (1)
 - (a) The department may, for a medical cannabis pharmacy's or a medical cannabis courier's violation of this chapter or an applicable administrative rule:
 - (i) revoke the medical cannabis pharmacy or medical cannabis courier license;
 - (ii) refuse to renew the medical cannabis pharmacy or medical cannabis courier license; or
 - (iii) assess the medical cannabis pharmacy or medical cannabis courier an administrative penalty.
 - (b) The department may, for a medical cannabis pharmacy agent's or medical cannabis courier agent's violation of this chapter:
 - (i) revoke the medical cannabis pharmacy agent or medical cannabis courier agent registration card;
 - (ii) refuse to renew the medical cannabis pharmacy agent or medical cannabis courier agent registration card; or
 - (iii) assess the medical cannabis pharmacy agent or medical cannabis courier agent an administrative penalty.
- (2) The department shall deposit an administrative penalty imposed under this section into the General Fund.
- (3) For a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section, the department may:
 - (a) for a fine amount not already specified in law, assess the person a fine of up to \$5,000 per violation, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
 - (b) order the person to cease and desist from the action that creates a violation.
- (4) The department may not revoke a medical cannabis pharmacy's license or a medical cannabis courier's license without first directing the medical cannabis pharmacy or the medical cannabis

courier to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

- (5) If, within 20 calendar days after the day on which the department issues a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.
- (6) The department may, for a person who fails to comply with a citation under this section:
 - (a) refuse to issue or renew the person's license or agent registration card; or
 - (b) suspend, revoke, or place on probation the person's license or agent registration card.
- (7)
 - (a) Except where a criminal penalty is expressly provided for a specific violation of this chapter, if an individual violates a provision of this chapter, the individual is:
 - (i) guilty of an infraction; and
 - (ii) subject to a \$100 fine.
 - (b) An individual who is guilty of a violation described in Subsection (7)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (7)(a).

Renumbered and Amended by Chapter 273, 2023 General Session

Renumbered and Amended by Chapter 307, 2023 General Session

Amended by Chapter 307, 2023 General Session, (Coordination Clause)

4-41a-802 Report.

- (1) At or before the November interim meeting each year, the department shall report to the Health and Human Services Interim Committee on:
 - (a) the number of applications and renewal applications that the department receives under this chapter;
 - (b) the number of each type of cannabis production facility that the department licenses in each county;
 - (c) the amount of cannabis that licensees grow;
 - (d) the amount of cannabis that licensees manufacture into cannabis products;
 - (e) the number of licenses the department revokes under this chapter;
 - (f) the department's operation of an independent cannabis testing laboratory under Section 4-41a-201, including:
 - (i) the cannabis and cannabis products the department tested; and
 - (ii) the results of the tests the department performed; and
 - (g) the expenses incurred and revenues generated under this chapter.
- (2) The department may not include personally identifying information in the report described in this section.
- (3) The department shall report to the working group described in Section 36-12-8.2 as requested by the working group.

Amended by Chapter 273, 2023 General Session

Part 9 Academic Medical Cannabis Research

4-41a-901 Academic medical cannabis research -- License.

- (1) A medical cannabis research licensee may, subject to department rules described in Subsection (4), obtain from a cannabis production establishment or a medical cannabis pharmacy, and possess cannabis for academic medical cannabis research.
- (2) The department shall license a research university to obtain and possess cannabis for the purpose of academic medical cannabis research if the research university submits to the department:
 - (a) the location where the research university intends to conduct the research;
 - (b) the research university's research plan; and
 - (c) the name of the principal investigator of the research university who will:
 - (i) supervise the procurement, possession, and security of cannabis and cannabis product; and
 - (ii) oversee the academic research.
- (3) The department shall maintain a list of each medical cannabis research licensee.
- (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
 - (a) establish requirements for a licensee to:
 - (i) participate in academic medical cannabis research;
 - (ii) obtain from a cannabis production establishment, and possess, cannabis for academic medical cannabis research; and
 - (b) set sampling and testing procedures.
- (5) A medical cannabis research licensee shall provide to the department written consent allowing a representative of the department and local law enforcement to enter all premises where the licensee possesses or stores cannabis for the purpose of:
 - (a) conducting a physical inspection; or
 - (b) ensuring compliance with the requirements of this chapter.
- (6) An individual who has been convicted of a drug related felony within the last 10 years may not obtain, possess, or conduct any research on cannabis under a medical cannabis research licensee's license under this part.
- (7) The department may set a fee, in accordance with Subsection 4-2-103(2), for the application for a medical cannabis research license.

Amended by Chapter 350, 2021 General Session

4-41a-902 Cannabis production establishment product for academic research.

A cannabis production establishment may sell cannabis and cannabis products to a medical cannabis research licensee for the purpose of academic research.

Enacted by Chapter 5, 2019 Special Session 1

4-41a-903 Unlawful acts.

- (1) It is unlawful for a person who is not operating under the license of a medical cannabis research licensee to obtain or possess cannabis for academic medical cannabis research.
- (2) It is unlawful for a cannabis production establishment to offer, sell, or otherwise provide cannabis or cannabis products for the purpose of academic research to an entity that is not a medical cannabis research licensee.
- (3) The department may seize from a medical cannabis research licensee and destroy cannabis or cannabis products that do not comply with this chapter.

Enacted by Chapter 5, 2019 Special Session 1

Effective 7/1/2023

Part 10
Medical Cannabis Pharmacy License

Effective 7/1/2023

4-41a-1001 Medical cannabis pharmacy -- License -- Eligibility.

- (1) A person may not operate as a medical cannabis pharmacy without a license that the department issues under this part.
- (2)
- (a)
- (i) Subject to Subsections (4) and (5) and to Section 4-41a-1005, the department shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G, Chapter 6a, Utah Procurement Code.
 - (ii) The department may not issue a license to operate a medical cannabis pharmacy to an applicant who is not eligible for a license under this section.
- (b) An applicant is eligible for a license under this section if the applicant submits to the department:
- (i) subject to Subsection (2)(c), a proposed name and address where the applicant will operate the medical cannabis pharmacy;
 - (ii) the name and address of an individual who:
 - (A) for a publicly traded company, has a financial or voting interest of 10% or greater in the proposed medical cannabis pharmacy;
 - (B) for a privately held company, a financial or voting interest in the proposed medical cannabis pharmacy; or
 - (C) has the power to direct or cause the management or control of a proposed medical cannabis pharmacy;
 - (iii) for each application that the applicant submits to the department, a statement from the applicant that the applicant will obtain and maintain:
 - (A) a performance bond in the amount of \$100,000 issued by a surety authorized to transact surety business in the state; or
 - (B) a liquid cash account in the amount of \$100,000 with a financial institution;
 - (iv) an operating plan that:
 - (A) complies with Section 4-41a-1004;
 - (B) includes operating procedures to comply with the operating requirements for a medical cannabis pharmacy described in this part and with a relevant municipal or county law that is consistent with Section 4-41a-1106; and
 - (C) the department approves;
 - (v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and
 - (vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.
- (c)

- (i) A person may not locate a medical cannabis pharmacy:
 - (A) within 200 feet of a community location; or
 - (B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.
- (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the medical cannabis pharmacy establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.
- (iii) The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to site the proposed medical cannabis pharmacy without the waiver.
- (iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).
- (d) The department may not issue a license to an eligible applicant that the department has selected to receive a license until the selected eligible applicant complies with the bond or liquid cash requirement described in Subsection (2)(b)(iii).
- (e) If the department receives more than one application for a medical cannabis pharmacy within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.
- (3) If the department selects an applicant for a medical cannabis pharmacy license under this section, the department shall:
 - (a) charge the applicant an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504;
 - (b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii); and
 - (c) charge the licensee a fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504, for any change in location, ownership, or company structure.
- (4) The department may not issue a license to operate a medical cannabis pharmacy to an applicant if an individual described in Subsection (2)(b)(ii):
 - (a) has been convicted under state or federal law of:
 - (i) a felony; or
 - (ii) after December 3, 2018, a misdemeanor for drug distribution;
 - (b) is younger than 21 years old; or
 - (c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.
- (5)
 - (a) If an applicant for a medical cannabis pharmacy license under this section holds another license under this chapter, the department may not give preference to the applicant based on the applicant's status as a holder of the license.
 - (b) If an applicant for a medical cannabis pharmacy license under this section holds a license to operate a cannabis cultivation facility under this section, the department may give consideration to the applicant's status as a holder of the license if:
 - (i) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and
 - (ii) the department finds multiple other factors, in addition to the existing license, that support granting the new license.
- (6)
 - (a) The department may revoke a license under this part:

- (i) if the medical cannabis pharmacy does not begin operations within one year after the day on which the department issues an announcement of the department's intent to award a license to the medical cannabis pharmacy;
 - (ii) after the third the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;
 - (iii) if an individual described in Subsection (2)(b)(ii) is convicted, while the license is active, under state or federal law of:
 - (A) a felony; or
 - (B) after December 3, 2018, a misdemeanor for drug distribution;
 - (iv) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action;
 - (v) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter; or
 - (vi) if, after a change of ownership described in Subsection (11)(c), the department determines that the medical cannabis pharmacy no longer meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter.
- (b) The department shall rescind a notice of an intent to issue a license under this part to an applicant or revoke a license issued under this part if the associated medical cannabis pharmacy does not begin operation on or before June 1, 2021.
- (7)
- (a) A person who receives a medical cannabis pharmacy license under this chapter, if the municipality or county where the licensed medical cannabis pharmacy will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.
 - (b) If a licensee fails to submit to the department a copy the licensee's approved land use permit application in accordance with Subsection (7)(a), the department may revoke the licensee's license.
- (8) The department shall deposit the proceeds of a fee imposed by this section into the Qualified Production Enterprise Fund.
- (9) The department shall begin accepting applications under this part on or before March 1, 2020.
- (10)
- (a) The department's authority to issue a license under this section is plenary and is not subject to review.
 - (b) Notwithstanding Subsection (2), the decision of the department to award a license to an applicant is not subject to:
 - (i) Title 63G, Chapter 6a, Part 16, Protests; or
 - (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.
- (11)
- (a) A medical cannabis pharmacy license is not transferrable or assignable.
 - (b) A medical cannabis pharmacy shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis pharmacy.
 - (c) If the ownership of a medical cannabis pharmacy changes by 50% or more:

- (i) concurrent with the report described in Subsection (11)(b), the medical cannabis pharmacy shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c);
- (ii) within 30 days of the submission of the application, the department shall:
 - (A) conduct an application review; and
 - (B) award a license to the medical cannabis pharmacy for the remainder of the term of the medical cannabis pharmacy's license before the ownership change if the medical cannabis pharmacy meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter; and
- (iii) if the department approves the license application, notwithstanding Subsection (3), the medical cannabis pharmacy shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

Renumbered and Amended by Chapter 273, 2023 General Session
Amended by Chapter 307, 2023 General Session, (Coordination Clause)
Renumbered and Amended by Chapter 307, 2023 General Session
Amended by Chapter 317, 2023 General Session

Effective 7/1/2023

4-41a-1002 Medical cannabis pharmacy owners and directors -- Criminal background checks.

- (1) Each applicant to whom the department issues a notice of intent to award a license to operate as a medical cannabis pharmacy shall submit, before the department may award the license, from each individual who has a financial or voting interest of 10% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:
 - (a) a fingerprint card in a form acceptable to the Department of Public Safety;
 - (b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and
 - (c) consent to a fingerprint background check by:
 - (i) the Bureau of Criminal Identification; and
 - (ii) the Federal Bureau of Investigation.
- (2) The Bureau of Criminal Identification shall:
 - (a) check the fingerprints the applicant submits under Subsection (1) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;
 - (b) report the results of the background check to the department;
 - (c) maintain a separate file of fingerprints that applicants submit under Subsection (1) for search by future submissions to the local and regional criminal records databases, including latent prints;
 - (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and
 - (e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.
- (3) The department shall:

- (a) assess an individual who submits fingerprints under Subsection (1) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and
- (b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal Identification.

Renumbered and Amended by Chapter 273, 2023 General Session
Renumbered and Amended by Chapter 307, 2023 General Session
Amended by Chapter 307, 2023 General Session, (Coordination Clause)
Amended by Chapter 317, 2023 General Session

Effective 7/1/2023

4-41a-1003 Renewal - Notice of available license.

- (1) The department shall renew a license under Sections 4-41a-1001 through 4-41a-1005 every year if, at the time of renewal:
 - (a) the licensee meets the requirements of Section 4-41a-1001;
 - (b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 4-41a-1004(5), the department sets in accordance with Section 63J-1-504; and
 - (c) if the medical cannabis pharmacy changes the operating plan described in Section 4-41a-1004 that the department approved under Subsection 4-41a-1001(2)(b)(iv), the department approves the new operating plan.
- (2)
 - (a) If a licensed medical cannabis pharmacy abandons the medical cannabis pharmacy's license, the department shall publish notice of an available license , for the geographic area in which the medical cannabis pharmacy license is available, as a class A notice under Section 63G-30-102, for at least seven days.
 - (b) The department may establish criteria, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to identify the medical cannabis pharmacy actions that constitute abandonment of a medical cannabis pharmacy license.
- (3) If the department has not completed the necessary processes to make a determination on a license renewal under Subsections (1)(a) and (c) before the expiration of a license, the department may issue a conditional medical cannabis pharmacy license to a licensed medical cannabis pharmacy that has applied for license renewal under this section and paid the fee described in Subsection (1)(b).

Renumbered and Amended by Chapter 273, 2023 General Session
Renumbered and Amended by Chapter 307, 2023 General Session
Amended by Chapter 307, 2023 General Session, (Coordination Clause)
Amended by Chapter 435, 2023 General Session

Effective 7/1/2023

4-41a-1004 Operating plan.

- A person applying for a medical cannabis pharmacy license shall submit to the department a proposed operation plan for the medical cannabis pharmacy that includes:
- (1) a description of the physical characteristics of the proposed facility, including a floor plan and an architectural elevation;
 - (2) a description of the credentials and experience of:
 - (a) each officer, director, or owner of the proposed medical cannabis pharmacy; and

- (b) any highly skilled or experienced prospective employee;
- (3) the medical cannabis pharmacy's employee training standards;
- (4) a security plan;
- (5) a description of the medical cannabis pharmacy's inventory control system, including a plan to make the inventory control system compatible with the state electronic verification system;
- (6) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis; and
- (7) a description of the proposed medical cannabis pharmacy's strategic plan for opening the medical cannabis pharmacy, including gauging appropriate timing based on:
 - (a) the supply of medical cannabis and medical cannabis products, in consultation with the department; and
 - (b) the quantity and condition of the population of medical cannabis cardholders, in consultation with the Department of Health and Human Services.

Renumbered and Amended by Chapter 273, 2023 General Session

Renumbered and Amended by Chapter 307, 2023 General Session

Amended by Chapter 307, 2023 General Session, (Coordination Clause)

Effective 7/1/2023

4-41a-1005 Maximum number of licenses .

- (1)
 - (a) Except as provided in Subsections (1)(b) or (d), if a sufficient number of applicants apply, the department shall issue up to 15 medical cannabis pharmacy licenses in accordance with this section.
 - (b) If an insufficient number of qualified applicants apply for the available number of medical cannabis pharmacy licenses, the department shall issue a medical cannabis pharmacy license to each qualified applicant.
 - (c) The department may issue the licenses described in Subsection (1)(a) in accordance with this Subsection (1)(c).
 - (i) Using one procurement process, the department may issue eight licenses to an initial group of medical cannabis pharmacies and six licenses to a second group of medical cannabis pharmacies.
 - (ii) If the department issues licenses in two phases in accordance with Subsection (1)(c)(i), the department shall:
 - (A) divide the state into no less than four geographic regions;
 - (B) issue at least one license in each geographic region during each phase of issuing licenses; and
 - (C) complete the process of issuing medical cannabis pharmacy licenses no later than July 1, 2020.
 - (iii) In issuing a 15th license under Subsection (1), the department shall ensure that the license recipient will locate the medical cannabis pharmacy within Dagget, Duchesne, Uintah, Carbon, Sevier, Emery, Grand, or San Juan County.
 - (d)
 - (i) The department may issue licenses to operate a medical cannabis pharmacy in addition to the licenses described in Subsection (1)(a) if the department determines, in consultation with the Department of Health and Human Services and after an annual or more frequent analysis of the current and anticipated market for medical cannabis, that each additional

license is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical cannabis cardholders.

- (ii) The department shall:
 - (A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish criteria and processes for the consultation, analysis, and application for a license described in Subsection (1)(d)(i); and
 - (B) report to the Executive Appropriations Committee of the Legislature before each time the department issues an additional license under Subsection (1)(d)(i) regarding the results of the consultation and analysis described in Subsection (1)(d)(i) and the application of the criteria described in Subsection (1)(d)(ii)(A).
- (2)
 - (a) If there are more qualified applicants than there are available licenses for medical cannabis pharmacies, the department shall:
 - (i) evaluate each applicant and award the license to the applicant that best demonstrates:
 - (A) experience with establishing and successfully operating a business that involves complying with a regulatory environment, tracking inventory, and training, evaluating, and monitoring employees;
 - (B) an operating plan that will best ensure the safety and security of patrons and the community;
 - (C) positive connections to the local community;
 - (D) the suitability of the proposed location and the location's accessibility for qualifying patients;
 - (E) the extent to which the applicant can increase efficiency and reduce the cost of medical cannabis for patients; and
 - (F) a strategic plan described in Subsection 4-41a-1004(7) that has a comparatively high likelihood of success; and
 - (ii) ensure a geographic dispersal among licensees that is sufficient to reasonably maximize access to the largest number of medical cannabis cardholders.
 - (b) In making the evaluation described in Subsection (2)(a), the department may give increased consideration to applicants who indicate a willingness to:
 - (i) operate as a home delivery medical cannabis pharmacy that accepts electronic medical cannabis orders that the state central patient portal facilitates; and
 - (ii) accept payments through:
 - (A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 4-41a-108; or
 - (B) a financial institution in accordance with Subsection 4-41a-108(4).
- (3) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (2).

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Effective 7/1/2023

Part 11
Medical Cannabis Pharmacy Operation and Agents

Effective 7/1/2023

4-41a-1101 Operating requirements -- General.

- (1)
 - (a) A medical cannabis pharmacy shall operate:
 - (i) at the physical address provided to the department under Section 4-41a-1001; and
 - (ii) in accordance with the operating plan provided to the department under Section 4-41a-1001 and, if applicable, Section 4-41a-1004.
 - (b) A medical cannabis pharmacy shall notify the department before a change in the medical cannabis pharmacy's physical address or operating plan.
- (2) An individual may not enter a medical cannabis pharmacy unless the individual:
 - (a) is at least 18 years old or is an emancipated minor under Section 80-7-105; and
 - (b) except as provided in Subsection (4):
 - (i) possesses a valid:
 - (A) medical cannabis pharmacy agent registration card;
 - (B) pharmacy medical provider registration card; or
 - (C) medical cannabis card;
 - (ii) is an employee of the department performing an inspection under Section 4-41a-1103; or
 - (iii) is another individual as the department provides.
- (3) A medical cannabis pharmacy may not employ an individual who is younger than 21 years old.
- (4) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may authorize an individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors the individual at all times while the individual is at the medical cannabis pharmacy and maintains a record of the individual's access.
- (5) A medical cannabis pharmacy shall operate in a facility that has:
 - (a) a single, secure public entrance;
 - (b) a security system with a backup power source that:
 - (i) detects and records entry into the medical cannabis pharmacy; and
 - (ii) provides notice of an unauthorized entry to law enforcement when the medical cannabis pharmacy is closed; and
 - (c) a lock on each area where the medical cannabis pharmacy stores cannabis or a cannabis product.
- (6) A medical cannabis pharmacy shall post, both clearly and conspicuously in the medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection 4-41a-1102(2).
- (7) Except for an emergency situation described in Subsection 26B-4-213(3)(c), a medical cannabis pharmacy may not allow any individual to consume cannabis on the property or premises of the medical cannabis pharmacy.
- (8) A medical cannabis pharmacy may not sell cannabis or a cannabis product without first indicating on the cannabis or cannabis product label the name of the medical cannabis pharmacy.
- (9)
 - (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the following information regarding each recommendation underlying a transaction:
 - (i) the recommending medical provider's name, address, and telephone number;
 - (ii) the patient's name and address;
 - (iii) the date of issuance;

- (iv) directions of use and dosing guidelines or an indication that the recommending medical provider did not recommend specific directions of use or dosing guidelines; and
 - (v) if the patient did not complete the transaction, the name of the medical cannabis cardholder who completed the transaction.
- (b)
- (i) Except as provided in Subsection (9)(b)(iii), a medical cannabis pharmacy may not sell medical cannabis unless the medical cannabis has a label securely affixed to the container indicating the following minimum information:
 - (A) the name, address, and telephone number of the medical cannabis pharmacy;
 - (B) the unique identification number that the medical cannabis pharmacy assigns;
 - (C) the date of the sale;
 - (D) the name of the patient;
 - (E) the name of the recommending medical provider who recommended the medical cannabis treatment;
 - (F) directions for use and cautionary statements, if any;
 - (G) the amount dispensed and the cannabinoid content;
 - (H) the suggested use date;
 - (I) for unprocessed cannabis flower, the legal use termination date; and
 - (J) any other requirements that the department determines, in consultation with the Division of Professional Licensing and the Board of Pharmacy.
 - (ii) A medical cannabis pharmacy is exempt from the requirement to provide the following information under Subsection (9)(b)(i) if the information is already provided on the product label that a cannabis production establishment affixes:
 - (A) a unique identification number;
 - (B) directions for use and cautionary statements;
 - (C) amount and cannabinoid content; and
 - (D) a suggested use date.
 - (iii) If the size of a medical cannabis container does not allow sufficient space to include the labeling requirements described in Subsection (9)(b)(i), the medical cannabis pharmacy may provide the following information described in Subsection (9)(b)(i) on a supplemental label attached to the container or an informational enclosure that accompanies the container:
 - (A) the cannabinoid content;
 - (B) the suggested use date; and
 - (C) any other requirements that the department determines.
 - (iv) A medical cannabis pharmacy may sell medical cannabis to another medical cannabis pharmacy without a label described in Subsection (9)(b)(i).
- (10) A pharmacy medical provider or medical cannabis pharmacy agent shall:
- (a) upon receipt of an order from a limited medical provider in accordance with Subsections 26B-4-204(1)(b) through (d):
 - (i) for a written order or an electronic order under circumstances that the department determines, contact the limited medical provider or the limited medical provider's office to verify the validity of the recommendation; and
 - (ii) for an order that the pharmacy medical provider or medical cannabis pharmacy agent verifies under Subsection (10)(a)(i) or an electronic order that is not subject to verification under Subsection (10)(a)(i), enter the limited medical provider's recommendation or renewal, including any associated directions of use, dosing guidelines, or caregiver indication, in the state electronic verification system;

- (b) in processing an order for a holder of a conditional medical cannabis card described in Subsection 26B-4-213(1)(b) that appears irregular or suspicious in the judgment of the pharmacy medical provider or medical cannabis pharmacy agent, contact the recommending medical provider or the recommending medical provider's office to verify the validity of the recommendation before processing the cardholder's order;
 - (c) unless the medical cannabis cardholder has had a consultation under Subsection 26B-4-231(5), verbally offer to a medical cannabis cardholder at the time of a purchase of cannabis, a cannabis product, or a medical cannabis device, personal counseling with the pharmacy medical provider; and
 - (d) provide a telephone number or website by which the cardholder may contact a pharmacy medical provider for counseling.
- (11)
- (a) A medical cannabis pharmacy may create a medical cannabis disposal program that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a medical cannabis device, or medical cannabis product in a locked box or other secure receptacle within the medical cannabis pharmacy.
 - (b) A medical cannabis pharmacy with a disposal program described in Subsection (11)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider can access deposited medical cannabis or medical cannabis products.
 - (c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or medical cannabis products by:
 - (i) rendering the deposited medical cannabis or medical cannabis products unusable and unrecognizable before transporting deposited medical cannabis or medical cannabis products from the medical cannabis pharmacy; and
 - (ii) disposing of the deposited medical cannabis or medical cannabis products in accordance with:
 - (A) federal and state law, rules, and regulations related to hazardous waste;
 - (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;
 - (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and
 - (D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (12) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products by a medical cannabis pharmacy.

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4-41a-1102 Dispensing -- Amount a medical cannabis pharmacy may dispense -- Reporting -- Form of cannabis or cannabis product.

- (1)
- (a) A medical cannabis pharmacy may not sell a product other than:
 - (i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;

- (ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;
 - (iii) a medical cannabis device; or
 - (iv) educational material related to the medical use of cannabis.
 - (b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to an individual with:
 - (i)
 - (A) a medical cannabis card; or
 - (B) a Department of Health and Human Services registration described in Subsection 26B-4-213(10); and
 - (ii) a corresponding government issued photo identification.
 - (c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a cannabis-based drug that the United States Food and Drug Administration has approved.
 - (d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a medical cannabis device or medical cannabis product to an individual described in Subsection 26B-4-213(2)(a)(i)(B) or to a minor described in Subsection 26B-4-213(2)(c) unless the individual or minor has the approval of the Compassionate Use Board in accordance with Subsection 26B-1-421(5).
- (2) A medical cannabis pharmacy:
- (a) may dispense to a medical cannabis cardholder, in any one 28-day period, up to the legal dosage limit of:
 - (i) unprocessed cannabis that:
 - (A) is in a medicinal dosage form; and
 - (B) carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; and
 - (ii) a cannabis product that is in a medicinal dosage form; and
 - (b) may not dispense:
 - (i) more medical cannabis than described in Subsection (2)(a); or
 - (ii) to an individual whose recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection 26B-4-231(5) any medical cannabis.
- (3)
- (a) A medical cannabis pharmacy shall:
 - (i)
 - (A) access the state electronic verification system before dispensing cannabis or a cannabis product to a medical cannabis cardholder in order to determine if the cardholder or, where applicable, the associated patient has met the maximum amount of medical cannabis described in Subsection (2); and
 - (B) if the verification in Subsection (3)(a)(i) indicates that the individual has met the maximum amount described in Subsection (2), decline the sale, and notify the recommending medical provider who made the underlying recommendation;
 - (ii) submit a record to the state electronic verification system each time the medical cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;
 - (iii) ensure that the pharmacy medical provider who is a licensed pharmacist reviews each medical cannabis transaction before dispensing the medical cannabis to the cardholder in accordance with pharmacy practice standards;
 - (iv) package any medical cannabis that is in a container that:

- (A) complies with Subsection 4-41a-602(1)(b) or, if applicable, provisions related to a container for unprocessed cannabis flower in the definition of "medicinal dosage form" in Section 26B-4-201;
 - (B) is tamper-resistant and tamper-evident; and
 - (C) provides an opaque bag or box for the medical cannabis cardholder's use in transporting the container in public;
 - (v) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption; and
 - (vi) beginning January 1, 2024, for a cannabis product that is cannabis flower, vaporizer cartridges, or concentrate, provide the product's terpene profiles collected under Subsection 4-41a-602(4) at or before the point of sale.
- (b) A medical cannabis cardholder transporting or possessing the container described in Subsection (3)(a)(iv) in public shall keep the container within the opaque bag or box that the medical cannabis pharmacist provides.
- (4)
- (a) Except as provided in Subsection (4)(b), a medical cannabis pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.
 - (b) A medical cannabis pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.
- (5)
- (a) A medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1)(a)(i), (ii), or (iii).
 - (b) A medical cannabis pharmacy may give, at no cost, educational material related to the medical use of cannabis.
- (6) A medical cannabis pharmacy may purchase and store medical cannabis devices regardless of whether the seller has a cannabis-related license under this chapter or Title 26B, Utah Health and Human Services Code.

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4-41a-1103 Inspections.

- (1) Each medical cannabis pharmacy shall maintain the pharmacy's medical cannabis treatment recommendation files and other records in accordance with this chapter, department rules, and the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.
- (2)
 - (a) The department may inspect the records, facility, and inventory of a medical cannabis pharmacy at any time during business hours in order to determine if the medical cannabis pharmacy complies with this chapter.
 - (b) The Department of Health and Human Services may inspect patient records held by a medical cannabis pharmacy:

- (i) for compliance with the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended; or
 - (ii) to ensure that a medical cannabis pharmacy is providing a cannabis product to a patient in accordance with the recommendations of the patient's recommending medical provider.
- (3)
- (a) An inspection conducted by the department under this section may include:
 - (i) inspecting a site, facility, vehicle, book, record, paper, document, data, or other physical or electronic information, or any combination of the above;
 - (ii) questioning of any relevant individual;
 - (iii) inspecting equipment, an instrument, a tool, or machinery, including a container or label;
 - (iv) random sampling of medical cannabis in accordance with rules described in Section 4-41a-701; or
 - (v) seizure of medical cannabis, medical cannabis devices, or educational material as evidence in a department investigation or inspection or in instances of compliance failure.
 - (b) An inspection conducted by the Department of Health and Human Services under Subsection (2)(b) may include:
 - (i) inspecting a site, facility, vehicle, book, record, paper, document, data, or other physical or electronic information, or any combination of the above; or
 - (ii) questioning of any relevant individual.
- (4) In making an inspection under this section:
- (a) the department may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information, including financial data, sales data, shipping data, pricing data, and employee data; and
 - (b) the Department of Health and Human Services may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information related to patient records.
- (5) Failure to provide the department, the Department of Health and Human Services, or the authorized agents of the department or the Department of Health and Human Services immediate access to records and facilities during business hours in accordance with this section may result in:
- (a) the imposition of a civil monetary penalty that the department sets in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (b) license or registration suspension or revocation; or
 - (c) an immediate cessation of operations under a cease and desist order that the department issues.
- (6) Notwithstanding any other provision of law, the department may temporarily store in any department facility the items the department seizes under Subsection (3)(a)(v) until the department:
- (a) determines that sufficient compliance justifies the return of the seized items; or
 - (b) disposes of the items in the same manner as a cannabis production establishment in accordance with Section 4-41a-405.

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4-41a-1104 Advertising.

- (1) Except as provided in this section, a person may not advertise in any medium regarding a medical cannabis pharmacy or the dispensing of medical cannabis within the state.
- (2) A medical cannabis pharmacy may:
 - (a) advertise an employment opportunity at the medical cannabis pharmacy;
 - (b) notwithstanding any municipal or county ordinance prohibiting signage, use signage on the outside of the medical cannabis pharmacy that:
 - (i) includes only:
 - (A) in accordance with Subsection 4-41a-109(4), the medical cannabis pharmacy's name, logo, and hours of operation; and
 - (B) a green cross; and
 - (ii) complies with local ordinances regulating signage;
 - (c) advertise in any medium:
 - (i) the pharmacy's name and logo;
 - (ii) the location and hours of operation of the medical cannabis pharmacy;
 - (iii) a service available at the medical cannabis pharmacy;
 - (iv) personnel affiliated with the medical cannabis pharmacy;
 - (v) whether the medical cannabis pharmacy is licensed as a home delivery medical cannabis pharmacy;
 - (vi) best practices that the medical cannabis pharmacy upholds; and
 - (vii) educational material related to the medical use of cannabis, as defined by the department;
 - (d) hold an educational event for the public or medical providers in accordance with Subsection (3) and the rules described in Subsection (4);
 - (e) maintain on the medical cannabis pharmacy's website non-promotional information regarding the medical cannabis pharmacy's inventory; or
 - (f) engage in targeted marketing, as determined by the department through rule, for advertising a particular medical cannabis product, medical cannabis device, or medical cannabis brand.
- (3) A medical cannabis pharmacy may not include in an educational event described in Subsection (2)(d):
 - (a) any topic that conflicts with this chapter or Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis;
 - (b) any gift items or merchandise other than educational materials, as those terms are defined by the department;
 - (c) any marketing for a specific product from the medical cannabis pharmacy or any other statement, claim, or information that would violate the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or
 - (d) a presenter other than the following:
 - (i) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
 - (ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;
 - (iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
 - (iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;
 - (v) a medical practitioner, similar to a practitioner described in Subsections (3)(d)(i) through (iv), who is licensed in another state or country;
 - (vi) a state employee; or
 - (vii) if the presentation relates to a cannabis topic other than medical treatment or medical conditions, an individual whom the department approves based on the individual's background and credentials in the presented topic.

- (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define:
- (a) the educational material described in Subsection (2)(c)(vii); and
 - (b) the elements of and restrictions on the educational event described in Subsection (3), including:
 - (i) a minimum age of 21 years old for attendees; and
 - (ii) an exception to the minimum age for a medical cannabis patient cardholder who is at least 18 years old.

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4-41a-1105 Local control.

- (1) The operation of a medical cannabis pharmacy:
- (a) shall be a permitted use:
 - (i) in any zone, overlay, or district within the municipality or county except for a primarily residential zone; and
 - (ii) on land that the municipality or county has not zoned; and
 - (b) is subject to the land use regulations, as defined in Sections 10-9a-103 and 17-27a-103, that apply in the underlying zone.
- (2) A municipality or county may not:
- (a) on the sole basis that the applicant or medical cannabis pharmacy violates federal law regarding the legal status of cannabis, deny or revoke:
 - (i) a land use permit, as that term is defined in Sections 10-9a-103 and 17-27a-103, to operate a medical cannabis pharmacy; or
 - (ii) a business license to operate a medical cannabis pharmacy;
 - (b) require a certain distance between a medical cannabis pharmacy and:
 - (i) another medical cannabis pharmacy;
 - (ii) a cannabis production establishment;
 - (iii) a retail tobacco specialty business, as that term is defined in Section 26B-7-506; or
 - (iv) an outlet, as that term is defined in Section 32B-1-202; or
 - (c) in accordance with Subsections 10-9a-509(1) and 17-27a-508(1), enforce a land use regulation against a medical cannabis pharmacy that was not in effect on the day on which the medical cannabis pharmacy submitted a complete land use application.
- (3)
- (a) A municipality or county may enact an ordinance that:
 - (i) is not in conflict with this chapter; and
 - (ii) governs the time, place, or manner of medical cannabis pharmacy operations in the municipality or county.
 - (b) An ordinance that a municipality or county enacts under Subsection (3)(a) may not restrict the hours of operation from 7 a.m. to 10 p.m.
- (4) An applicant for a land use permit to operate a medical cannabis pharmacy shall comply with the land use requirements and application process described in:
- (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, including Section 10-9a-528; and

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act, including Section 17-27a-525.

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4-41a-1106 Medical cannabis pharmacy agent -- Registration.

- (1) An individual may not serve as a medical cannabis pharmacy agent of a medical cannabis pharmacy unless the department registers the individual as a medical cannabis pharmacy agent.
- (2) A recommending medical provider may not act as a medical cannabis pharmacy agent, have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or have the power to direct or cause the management or control of a medical cannabis pharmacy.
- (3)
 - (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis pharmacy on behalf of a prospective medical cannabis pharmacy agent, register and issue a medical cannabis pharmacy agent registration card to the prospective agent if the medical cannabis pharmacy:
 - (i) provides to the department:
 - (A) the prospective agent's name and address;
 - (B) the name and location of the licensed medical cannabis pharmacy where the prospective agent seeks to act as the medical cannabis pharmacy agent; and
 - (C) the submission required under Subsection (3)(b); and
 - (ii) pays a fee to the department in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.
 - (b) Each prospective agent described in Subsection (3)(a) shall:
 - (i) submit to the department:
 - (A) a fingerprint card in a form acceptable to the Department of Public Safety; and
 - (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and
 - (ii) consent to a fingerprint background check by:
 - (A) the Bureau of Criminal Identification; and
 - (B) the Federal Bureau of Investigation.
 - (c) The Bureau of Criminal Identification shall:
 - (i) check the fingerprints the prospective agent submits under Subsection (3)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;
 - (ii) report the results of the background check to the department;
 - (iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (3)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;
 - (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

- (v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.
- (d) The department shall:
 - (i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and
 - (ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal Identification.
- (4) The department shall designate, on an individual's medical cannabis pharmacy agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent.
- (5) A medical cannabis pharmacy agent shall comply with a certification standard that the department develops in collaboration with the Division of Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (6) The department shall ensure that the certification standard described in Subsection (5) includes training in:
 - (a) Utah medical cannabis law; and
 - (b) medical cannabis pharmacy best practices.
- (7) The department may revoke the medical cannabis pharmacy agent registration card of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual who:
 - (a) violates the requirements of this chapter; or
 - (b) is convicted under state or federal law of:
 - (i) a felony within the preceding 10 years; or
 - (ii) after December 3, 2018, a misdemeanor for drug distribution.
- (8)
 - (a) A medical cannabis pharmacy agent registration card expires two years after the day on which the department issues or renews the card.
 - (b) A medical cannabis pharmacy agent may renew the agent's registration card if the agent:
 - (i) is eligible for a medical cannabis pharmacy agent registration card under this section;
 - (ii) certifies to the department in a renewal application that the information in Subsection (3)(a) is accurate or updates the information; and
 - (iii) pays to the department a renewal fee in an amount that:
 - (A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and
 - (B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.
- (9)
 - (a) As a condition precedent to registration and renewal of a medical cannabis pharmacy agent registration card, a medical cannabis pharmacy agent shall:
 - (i) complete at least one hour of continuing education regarding patient privacy and federal health information privacy laws that is offered by the department under Subsection (9)(b) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and
 - (ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, and in collaboration with the Division of Professional Licensing and the Board of Pharmacy.

- (b) The department may, in consultation with the Division of Professional Licensing, develop the continuing education described in this Subsection (9).
 - (c) The pharmacist-in-charge described in Section 26B-4-219 shall ensure that each medical cannabis pharmacy agent working in the medical cannabis pharmacy who has access to the state electronic verification system is in compliance with this Subsection (9).
- (10) A medical cannabis pharmacy shall:
- (a) maintain a list of employees that have a medical cannabis pharmacy agent registration card; and
 - (b) provide the list to the department upon request.

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Amended by Chapter 317, 2023 General Session

Effective 7/1/2023

4-41a-1107 Medical cannabis pharmacy agent registration card -- Rebuttable presumption.

- (1) A medical cannabis pharmacy agent shall carry the individual's medical cannabis pharmacy agent registration card with the individual at all times when:
 - (a) the individual is on the premises of a medical cannabis pharmacy; and
 - (b) the individual is transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device between a cannabis production establishment and a medical cannabis pharmacy.
- (2) If an individual handling, at a medical cannabis pharmacy, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device or transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, possesses the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1):
 - (a) there is a rebuttable presumption that the individual possesses the cannabis, cannabis product, or medical cannabis device legally; and
 - (b) there is no probable cause, based solely on the individual's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device in compliance with Subsection (1), that the individual is engaging in illegal activity.
- (3)
 - (a) A medical cannabis pharmacy agent who fails to carry the agent's medical cannabis pharmacy agent registration card in accordance with Subsection (1) is:
 - (i) for a first or second offense in a two-year period:
 - (A) guilty of an infraction; and
 - (B) is subject to a \$100 fine; or
 - (ii) for a third or subsequent offense in a two-year period:
 - (A) guilty of a class C misdemeanor; and
 - (B) subject to a \$750 fine.
 - (b)
 - (i) The prosecuting entity shall notify the department and the relevant medical cannabis pharmacy of each conviction under Subsection (3)(a).

- (ii) For each violation described in Subsection (3)(a)(ii), the department may assess the relevant medical cannabis pharmacy a fine of up to \$5,000, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (c) An individual who is guilty of a violation described in Subsection (3)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (3)(a).

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Part 12 Medical Cannabis Home Delivery and Couriers

Effective 7/1/2023

4-41a-1201 Medical cannabis home delivery designation.

- (1) The department may designate a medical cannabis pharmacy as a home delivery medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's operating plan demonstrates the functional and technical ability to:
 - (a) safely conduct transactions for medical cannabis shipments;
 - (b) accept electronic medical cannabis orders that the state central patient portal facilitates; and
 - (c) accept payments through:
 - (i) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 26-61a-603; or
 - (ii) a financial institution in accordance with Subsection 26-61a-603(4).
- (2) An applicant seeking a designation as a home delivery medical cannabis pharmacy shall identify in the applicant's operating plan any information relevant to the department's evaluation described in Subsection (1), including:
 - (a) the name and contact information of the payment provider;
 - (b) the nature of the relationship between the prospective licensee and the payment provider;
 - (c) the processes of the following to safely and reliably conduct transactions for medical cannabis shipments:
 - (i) the prospective licensee; and
 - (ii) the electronic payment provider or the financial institution described in Subsection (1)(c); and
 - (d) the ability of the licensee to comply with the department's rules regarding the secure transportation and delivery of medical cannabis or medical cannabis product to a medical cannabis cardholder.
- (3) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy that the department designates as a home delivery medical cannabis pharmacy may deliver medical cannabis shipments in accordance with this part.

Enacted by Chapter 273, 2023 General Session

Effective 7/1/2023**4-41a-1202 Home delivery of medical cannabis shipments -- Medical cannabis couriers -- License.**

- (1) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the safety, security, and efficiency of a home delivery medical cannabis pharmacy's fulfillment of electronic medical cannabis orders that the state central patient portal facilitates, including rules regarding the safe and controlled delivery of medical cannabis shipments.
- (2) A person may not operate as a medical cannabis courier without a license that the department issues under this section.
- (3)
 - (a) Subject to Subsections (5) and (6), the department shall issue a license to operate as a medical cannabis courier to an applicant who is eligible for a license under this section.
 - (b) An applicant is eligible for a license under this section if the applicant submits to the department:
 - (i) the name and address of an individual who:
 - (A) has a financial or voting interest of 10% or greater in the proposed medical cannabis courier; or
 - (B) has the power to direct or cause the management or control of a proposed cannabis production establishment;
 - (ii) an operating plan that includes operating procedures to comply with the operating requirements for a medical cannabis courier described in this chapter; and
 - (iii) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.
- (4) If the department determines that an applicant is eligible for a license under this section, the department shall:
 - (a) charge the applicant an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and
 - (b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (3)(b)(i).
- (5) The department may not issue a license to operate as a medical cannabis courier to an applicant if an individual described in Subsection (3)(b)(i):
 - (a) has been convicted under state or federal law of:
 - (i) a felony; or
 - (ii) after September 23, 2019, a misdemeanor for drug distribution; or
 - (b) is younger than 21 years old.
- (6) The department may revoke a license under this part if:
 - (a) the medical cannabis courier does not begin operations within one year after the day on which the department issues the initial license;
 - (b) the medical cannabis courier makes the same violation of this chapter three times;
 - (c) an individual described in Subsection (3)(b)(i) is convicted, while the license is active, under state or federal law of:
 - (i) a felony; or
 - (ii) after September 23, 2019, a misdemeanor for drug distribution; or
 - (d) after a change of ownership described in Subsection (15)(c), the department determines that the medical cannabis courier no longer meets the minimum standards for licensure and operation of the medical cannabis courier described in this chapter.

- (7) The department shall deposit the proceeds of a fee imposed by this section in the Qualified Production Enterprise Fund.
- (8) The department shall begin accepting applications under this section on or before July 1, 2020.
- (9) The department's authority to issue a license under this section is plenary and is not subject to review.
- (10) Each applicant for a license as a medical cannabis courier shall submit, at the time of application, from each individual who has a financial or voting interest of 10% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:
 - (a) a fingerprint card in a form acceptable to the Department of Public Safety;
 - (b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and
 - (c) consent to a fingerprint background check by:
 - (i) the Bureau of Criminal Identification; and
 - (ii) the Federal Bureau of Investigation.
- (11) The Bureau of Criminal Identification shall:
 - (a) check the fingerprints the applicant submits under Subsection (10) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;
 - (b) report the results of the background check to the department;
 - (c) maintain a separate file of fingerprints that applicants submit under Subsection (10) for search by future submissions to the local and regional criminal records databases, including latent prints;
 - (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and
 - (e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.
- (12) The department shall:
 - (a) assess an individual who submits fingerprints under Subsection (10) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and
 - (b) remit the fee described in Subsection (12)(a) to the Bureau of Criminal Identification.
- (13) The department shall renew a license under this section every year if, at the time of renewal:
 - (a) the licensee meets the requirements of this section; and
 - (b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.
- (14) A person applying for a medical cannabis courier license shall submit to the department a proposed operating plan that complies with this section and that includes:
 - (a) a description of the physical characteristics of any proposed facilities, including a floor plan and an architectural elevation, and delivery vehicles;
 - (b) a description of the credentials and experience of each officer, director, or owner of the proposed medical cannabis courier;
 - (c) the medical cannabis courier's employee training standards;
 - (d) a security plan; and

- (e) storage and delivery protocols, both short and long term, to ensure that medical cannabis shipments are stored and delivered in a manner that is sanitary and preserves the integrity of the cannabis.

(15)

- (a) A medical cannabis courier license is not transferrable or assignable.
- (b) A medical cannabis courier shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis courier.
- (c) If the ownership of a medical cannabis courier changes by 50% or more:
 - (i) concurrent with the report described in Subsection (15)(b), the medical cannabis courier shall submit a new application described in Subsection (3)(b);
 - (ii) within 30 days of the submission of the application, the department shall:
 - (A) conduct an application review; and
 - (B) award a license to the medical cannabis courier for the remainder of the term of the medical cannabis courier's license before the ownership change if the medical cannabis courier meets the minimum standards for licensure and operation of the medical cannabis courier described in this chapter; and
 - (iii) if the department approves the license application, notwithstanding Subsection (4), the medical cannabis courier shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

(16)

- (a) Except as provided in Subsection(16)(b), a person may not advertise regarding the transportation of medical cannabis.
- (b) Notwithstanding Subsection (15)(a) and subject to Section 4-41a-109, a licensed home delivery medical cannabis pharmacy or a licensed medical cannabis courier may advertise:
 - (i) a green cross;
 - (ii) the pharmacy's or courier's name and logo; and
 - (iii) that the pharmacy or courier is licensed to transport medical cannabis shipments.

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4-41a-1203 Medical cannabis shipment transportation.

- (1) The department shall ensure that each home delivery medical cannabis pharmacy is capable of delivering, directly or through a medical cannabis courier, medical cannabis shipments in a secure manner.
- (2)
 - (a) A home delivery medical cannabis pharmacy may contract with a licensed medical cannabis courier to deliver medical cannabis shipments to fulfill electronic medical cannabis orders that the state central patient portal facilitates.
 - (b) If a home delivery medical cannabis pharmacy enters into a contract described in Subsection (2)(a), the pharmacy shall:
 - (i) impose security and personnel requirements on the medical cannabis courier sufficient to ensure the security and safety of medical cannabis shipments; and
 - (ii) provide regular oversight of the medical cannabis courier.

- (3) Notwithstanding Subsection 4-41a-404(1), an individual may transport a medical cannabis shipment if the individual is:
 - (a) a registered pharmacy medical provider;
 - (b) a registered medical cannabis pharmacy agent; or
 - (c) a registered agent of the medical cannabis courier described in Subsection (2).
- (4) An individual transporting a medical cannabis shipment under Subsection (3) shall comply with the requirements of Subsection 4-41a-404(3).
- (5) In addition to the requirements in Subsections (3) and (4), the department may establish by rule, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting medical cannabis shipments that are related to safety for human consumption of cannabis or a cannabis product.
- (6)
 - (a) It is unlawful for an individual to transport a medical cannabis shipment with a manifest that does not meet the requirements of Subsection (4).
 - (b) Except as provided in Subsection (6)(d), an individual who violates Subsection (6)(a) is:
 - (i) guilty of an infraction; and
 - (ii) subject to a \$100 fine.
 - (c) An individual who is guilty of a violation described in Subsection (6)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (6)(b).
 - (d) If the individual described in Subsection (6)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:
 - (i) this chapter does not apply; and
 - (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

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4-41a-1204 Medical cannabis courier agent -- Background check -- Registration card -- Rebuttable presumption.

- (1) An individual may not serve as a medical cannabis courier agent unless:
 - the department registers the individual as a medical cannabis courier agent.
- (2)
 - (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis courier on behalf of a medical cannabis courier agent, register and issue a medical cannabis courier agent registration card to the prospective agent if the medical cannabis courier:
 - (i) provides to the department:
 - (A) the prospective agent's name and address;
 - (B) the name and address of the medical cannabis courier;
 - (C) the name and address of each home delivery medical cannabis pharmacy with which the medical cannabis courier contracts to deliver medical cannabis shipments; and
 - (D) the submission required under Subsection (2)(b);

- (ii) as reported under Subsection (2)(c), has not been convicted under state or federal law of:
 - (A) a felony; or
 - (B) after December 3, 2018, a misdemeanor for drug distribution; and
 - (iii) pays the department a fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.
- (b) Each prospective agent described in Subsection (2)(a) shall:
- (i) submit to the department:
 - (A) a fingerprint card in a form acceptable to the Department of Public Safety; and
 - (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and
 - (ii) consent to a fingerprint background check by:
 - (A) the Bureau of Criminal Identification; and
 - (B) the Federal Bureau of Investigation.
- (c) The Bureau of Criminal Identification shall:
- (i) check the fingerprints the prospective agent submits under Subsection (2)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;
 - (ii) report the results of the background check to the department;
 - (iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (2)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;
 - (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and
 - (v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.
- (d) The department shall:
- (i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and
 - (ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal Identification.
- (3) The department shall designate on an individual's medical cannabis courier agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent and each home delivery medical cannabis courier for which the medical cannabis courier delivers medical cannabis shipments.
- (4)
- (a) A medical cannabis courier agent shall comply with a certification standard that the department develops, in collaboration with the Division of Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
 - (b) The department shall ensure that the certification standard described in Subsection (4)(a) includes training in:
 - (i) Utah medical cannabis law;

- (ii) the medical cannabis shipment process; and
 - (iii) medical cannabis courier agent best practices.
- (5)
- (a) A medical cannabis courier agent registration card expires two years after the day on which the department issues or renews the card.
 - (b) A medical cannabis courier agent may renew the agent's registration card if the agent:
 - (i) is eligible for a medical cannabis courier agent registration card under this section;
 - (ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information; and
 - (iii) pays to the department a renewal fee in an amount that:
 - (A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and
 - (B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.
- (6) The department may revoke or refuse to issue or renew the medical cannabis courier agent registration card of an individual who:
- (a) violates the requirements of this chapter; or
 - (b) is convicted under state or federal law of:
 - (i) a felony within the preceding 10 years; or
 - (ii) after December 3, 2018, a misdemeanor for drug distribution.
- (7) A medical cannabis courier agent whom the department has registered under this section shall carry the agent's medical cannabis courier agent registration card with the agent at all times when:
- (a) the agent is on the premises of the medical cannabis courier, a medical cannabis pharmacy, or a delivery address; and
 - (b) the agent is handling a medical cannabis shipment.
- (8) If a medical cannabis courier agent handling a medical cannabis shipment possesses the shipment in compliance with Subsection (7):
- (a) there is a rebuttable presumption that the agent possesses the shipment legally; and
 - (b) there is no probable cause, based solely on the agent's possession of the medical cannabis shipment that the agent is engaging in illegal activity.
- (9)
- (a) A medical cannabis courier agent who violates Subsection (7) is:
 - (i) guilty of an infraction; and
 - (ii) subject to a \$100 fine.
 - (b) An individual who is guilty of a violation described in Subsection (9)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (9)(a).
- (10) A medical cannabis courier shall:
- (a) maintain a list of employees who have a medical cannabis courier agent card; and
 - (b) provide the list to the department upon request.

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4-41a-1205 Home delivery of medical cannabis shipments.

- (1) An individual may not receive and a medical cannabis pharmacy agent or a medical cannabis courier agent may not deliver a medical cannabis shipment from a home delivery medical cannabis pharmacy unless:
 - (a) the individual receiving the shipment presents:
 - (i) a government issued photo identification; and
 - (ii)
 - (A) a valid medical cannabis card under the same name that appears on the government issued photo identification; or
 - (B) for a facility that a medical cannabis cardholder has designated as a caregiver under Subsection 26B-4-214(1)(b), evidence of the facility caregiver designation; and
 - (b) the delivery occurs at:
 - (i) the delivery address that is on file in the state electronic verification system; or
 - (ii) the facility that the medical cannabis cardholder has designated as a caregiver under Subsection 26B-4-214(1)(b).
- (2)
 - (a) A medical cannabis pharmacy agent may not deliver a medical cannabis shipment on behalf of a home delivery medical cannabis pharmacy unless the medical cannabis pharmacy agent is currently employed by the home delivery medical cannabis pharmacy.
 - (b) A medical cannabis courier agent may not deliver a medical cannabis shipment on behalf of a medical cannabis courier unless the medical cannabis courier agent is currently employed by the medical cannabis courier.
 - (c) Before a medical cannabis pharmacy agent or a medical cannabis courier agent distributes a medical cannabis shipment to a medical cannabis cardholder, the agent shall:
 - (i) verify the shipment information using the state electronic verification system;
 - (ii) ensure that the individual satisfies the identification requirements in Subsection (1);
 - (iii) verify that payment is complete; and
 - (iv) record the completion of the shipment transaction in a manner such that the delivery of the shipment will later be recorded within a reasonable period in the electronic verification system.
- (3) The medical cannabis courier shall:
 - (a)
 - (i) store each medical cannabis shipment in a secure manner until the recipient medical cannabis cardholder receives the shipment or the medical cannabis courier returns the shipment to the home delivery medical cannabis pharmacy in accordance with Subsection (4); and
 - (ii) ensure that only a medical cannabis courier agent is able to access the medical cannabis shipment until the recipient medical cannabis cardholder receives the shipment;
 - (b) return any undelivered medical cannabis shipment to the home delivery medical cannabis pharmacy, in accordance with Subsection (4), after the medical cannabis courier has possessed the shipment for 10 business days; and
 - (c) return any medical cannabis shipment to the home delivery medical cannabis pharmacy, in accordance with Subsection (4), if a medical cannabis cardholder refuses to accept the shipment.
- (4)
 - (a) If a medical cannabis courier or home delivery medical cannabis pharmacy agent returns an undelivered medical cannabis shipment that remains unopened, the home delivery medical cannabis pharmacy may repackage or otherwise reuse the shipment.

- (b) If a medical cannabis courier or home delivery medical cannabis pharmacy agent returns an undelivered or refused medical cannabis shipment under Subsection (3) that appears to be opened in any way, the home delivery medical cannabis pharmacy shall dispose of the shipment by:
 - (i) rendering the shipment unusable and unrecognizable before transporting the shipment from the home delivery medical cannabis pharmacy; and
 - (ii) disposing of the shipment in accordance with:
 - (A) federal and state laws, rules, and regulations related to hazardous waste;
 - (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;
 - (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and
 - (D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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